

# The Attorney General's Guide to Manufactured Housing Community Law

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Attorney General Tom Reilly • Commonwealth of Massachusetts

August 2000





August 2000

Dear Friends:

I am happy to present the Attorney General's Guide to Manufactured Housing Community Law, the most comprehensive and up-to-date law guide for manufactured housing communities in Massachusetts.

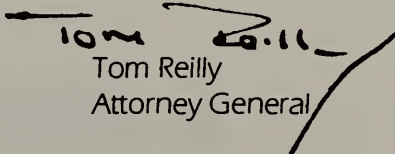
This law guide replaces the Attorney General's Mobile Home Park Law Guide, which was last issued in February 1989. Since then, there have been some important changes in state law, including significant statutory amendments and regulations for manufactured housing. This guide will explain those changes, and your legal rights and obligations under the law, clearly and extensively. With this knowledge and understanding, it is our hope that you will be able to address, resolve, and ultimately prevent problems in your communities.

In this new edition, we have included the Attorney General's Model Rules for Manufactured Housing Community Living. These Model Rules are the product of collaborative efforts between this Office, the Mobilehome Federation of Massachusetts, the Massachusetts Manufactured Housing Association, the Manufactured Housing Commission, and the Department of Housing and Community Development. The Model Rules address a wide range of issues related to manufactured housing community living, and they provide fair, clear, and balanced community rules that satisfy the requirements of all applicable laws. By adopting these rules in your communities, you will expedite the legally mandated review process and will ensure favorable review by my Office.

I want to thank the many people who have lent their time and energies to help us develop these Model Rules, including the manufactured community owners and residents. Our collaborative efforts demonstrate how much we can achieve by working together. The Model Rules represent an important first step in a new and improved partnership between manufactured housing community residents and owners in Massachusetts.

I look forward to continuing our work together and building upon these valuable partnerships to improve the quality of life in manufactured housing communities throughout the Commonwealth.

Sincerely,

  
Tom Reilly  
Attorney General



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## INTRODUCTION

Since the Attorney General issued a revised Mobile Home Guide in 1989, the law relating to manufactured housing has changed in important ways. This new Guide provides a comprehensive discussion of the legal rights and responsibilities of residents and owners of manufactured housing communities, as well as an explanation of recent changes in the law. In particular, it discusses M.G.L. c.140, §§ 32A-32S<sup>1</sup> often called the Manufactured Housing Act, the Attorney General's manufactured housing regulations, and other relevant housing laws. Understanding the law can help community owners and residents avoid disputes, resolve those that do occur, and, where necessary, take steps to enforce legal rights.

### I. AN OVERVIEW OF MANUFACTURED HOUSING IN MASSACHUSETTS

Today, about 35,000 Massachusetts residents live in more than 250 manufactured housing communities<sup>2</sup> statewide. Modern manufactured housing communities are not the stigmatized "trailer parks" of the past, but are often spacious communities of large and attractive manufactured homes<sup>3</sup> with all the conveniences of conventional housing and attractive landscapes. Many manufactured housing residents have found that manufactured homes (sometimes called "mobile homes") offer the benefits of traditional site-built housing at a much lower cost. This housing option is particularly important in view of the rising cost of real estate in Massachusetts over the last twenty years. As the courts have recognized, "manufactured housing communities provide a viable, affordable housing option to many elderly persons and families of low income...."<sup>4</sup>

#### A. The Unique Nature of Manufactured Housing Community Living

Despite the benefits of living in a manufactured housing community, residents are sometimes confronted with problems that they did not anticipate when they made their decision to buy their home. These problems generally arise from the unique nature of manufactured housing living. In most manufactured housing communities, residents own their homes, but must rent their lots from the community owner.<sup>5</sup> Most community owners establish rules governing residents' use and occupancy of their lots and the common areas of the community. Once placed on a lot, a manufactured home is essentially immobile.<sup>6</sup> Moving a home, in fact, can endanger its structural integrity. Most homes are set up on pads and connected to the community's utilities, and may also have additions, attached porches or decks. Larger "double-wide" homes are transported in sections and assembled on-site; disassembly and removal may damage them substantially. Even if a home could be moved, there may be nowhere to move it to. Many cities and towns in Massachusetts allow manufactured homes only in manufactured housing communities, and historically, there has been a scarcity of available spaces in existing communities.<sup>7</sup>

As a result, it is usually very difficult, if not impossible, to sell a manufactured home if it is not on a lot. "[I]f a tenant is unable to sell his home on the lot, his investment may be rendered almost worthless."<sup>8</sup> Consequently, if a community threatens to close (a "community discontinuance,") homeowners risk losing not only their home but also their entire investment. Community discontinuances thus "generate serious threats to the public health, safety, and general welfare of the citizens of this commonwealth, particularly the elderly and persons of low and moderate income."<sup>9</sup> In recent years, the Legislature has strengthened legal protections for manufactured

homeowners facing the threat of a community discontinuance. Since the new statute was enacted, there appears to have been a measurable decrease in the number of threats to discontinue manufactured housing communities.

## B. Balancing the Rights of Residents and Community Owners

Residents and community owners alike are entitled to respect in order to preserve and enhance their mutual interest in the manufactured housing community. In general, community owners should be able to recover their costs and have the chance to make a fair income from their investment in the community. Similarly, residents should be able to live in a stable community, maintain the value of their homes and, upon resale, recoup their investment to the extent the market allows.

In general, however, due to the unique nature of manufactured housing living, community owners have "the opportunity to exert substantial control" over residents,<sup>10</sup> who are in an "ineffective bargaining position" and have "no reasonable alternative" but to agree to their owners' demands.<sup>11</sup> Accordingly, the courts have acknowledged that manufactured housing residents "are often lacking in resources and deserving of legal protection."<sup>12</sup>

## C. The Manufactured Housing Act

It was in this context that the Legislature enacted comprehensive provisions protecting residents of manufactured housing communities, M.G.L. c. 140, §§ 32A-S ("the Manufactured Housing Act" or "the Act").<sup>13</sup> Carefully tailored statutory requirements were aimed at improving the residents' ineffective bargaining position while preserving and protecting the legitimate interests of community owners.<sup>14</sup>

In 1993 the Legislature, under the leadership of Senator Marc Pacheco, substantially amended the Act to authorize the Attorney General to issue regulations,<sup>15</sup> and to strengthen residents' legal protections, particularly those for residents facing the threat of a community discontinuance.<sup>16</sup> Upon signing the legislation, then-Governor Weld declared that the Legislature had recognized "the urgent need to address a crisis faced by a large number of elderly and low-income residents of mobile home parks." The purpose of the amendments was to "protect tenants who are facing the possible discontinuance of these parks and are consequently threatened with the uncompensated forfeiture of their homes."<sup>17</sup> In addition, the amendments assisted "both manufactured home community tenants and owners by making manufactured housing communities in the Commonwealth a more secure and affordable investment."<sup>18</sup>

## D. The Attorney General's Regulations

Under the Act, the Attorney General's Office plays an important role. Along with the Director of the Department of Housing and Community Development,<sup>19</sup> the Attorney General reviews all rules issued by community owners.<sup>20</sup> The Office also has the authority to enforce the Act by bringing civil actions in court.<sup>21</sup>

In addition, in 1996, the Attorney General issued manufactured housing regulations, as authorized by the amended Act. The regulations were written by a task force of assistant attor-

neys general from the Attorney General's Consumer Protection and Antitrust Division, and attorneys from the private law firm of Hill and Barlow acting in their capacity as Special Assistant Attorneys General.<sup>22</sup> Before issuing the regulations, this task force held public hearings in both Boston and Springfield. The task force also met with, and received written comments from, representatives of both community owners and residents. The regulations became effective on August 23, 1996, and are officially published at 940 C.M.R. 10.00 et seq. In this Guide, we will refer to them as simply the "Regulations."

One important purpose of the Attorney General's Regulations is to provide standards that guide the Attorney General in carrying out his obligation under the Act to review community rules. Whereas the Act merely states that no community rules may be "unreasonable, unfair or unconscionable,"<sup>23</sup> the Regulations provide more specific standards. In addition, the Regulations provide a concrete interpretation of the Act itself. Together with the Act and other housing laws, the Attorney General's Regulations set forth the rights and responsibilities of both community owners and residents of manufactured housing communities.<sup>24</sup>

#### E. The Attorney General's Model Rules for Manufactured Housing Community Living

Most recently, the Attorney General's Office has developed a comprehensive set of model rules for use by owners of manufactured housing communities, which are set out in Appendix C. These Model Rules are the product of a series of meetings with representatives of the Massachusetts Manufactured Housing Association (the statewide community owners' association), the Mobilehome Federation of Massachusetts (the statewide community residents' group), and representatives of the Department of Housing and Community Development ("DHCD") and the Manufactured Housing Commission.<sup>25</sup> Comments were taken over a period of several months, and all parties had a full opportunity to air their views on everything from pets and guests to utilities and aesthetic requirements. As a result of this process, the Model Rules amply address the need for balanced, fair and clear rules on almost every aspect of life in manufactured housing communities. Since the Model Rules closely track the requirements of both the Act and the Regulations, community owners who adopt the Model Rules can be assured that their proposed community rules will not be disapproved, while residents may be assured that their rights will be respected.

## II. A CONSUMER'S GUIDE TO MANUFACTURED HOUSING COMMUNITY LIVING

Despite the many benefits of living in a manufactured housing community, there may be times when you have questions or concerns about your home or life in your community. This Guide comprehensively reviews the law governing all aspects of life in your community, whether it is the decision to purchase – or sell – your home, construction or installation problems, community conditions, or rent and other fees. The Guide also includes special sections on manufactured housing cooperatives, purchasing your community, eviction, and discontinuance of manufactured housing communities. Understanding your legal rights and responsibilities can often be the first step in resolving any problems you may encounter.

### A. Buying a Manufactured Home

As with all major purchases, you should be completely informed before you make a decision to purchase a manufactured home. You should compare prices and examine rental and other costs over a reasonable planning period. If you are planning on moving into a manufactured housing community, you may also want to talk to current or past tenants, as well as the local board of health, which licenses the community. See Section III.A.2 below.

#### 1. Tenant's right to choose manufactured home dealer

In general, when you move into a manufactured housing community, you have the right to choose the manufactured home dealer from whom you purchase or lease your home. There is one exception: if the manufactured home site is being leased or rented for the first time, the community owner/operator<sup>26</sup> may restrict your choice of dealers based on reasonable aesthetic standards in the community rules. In addition, a community owner/operator may reasonably restrict your choice of brands of manufactured homes based on such reasonable aesthetic standards. A restriction will be presumed unfair, however, if it substantially limits your choice of a dealer. M.G.L. c. 140, § 32L(3); 940 C.M.R. 10.06(2).

#### 2. Hidden costs

If you are moving into a newly developed manufactured housing community, where the lot is being leased for the first time, and you are purchasing a home from the community owner/operator or a specified dealer, make sure that you understand what you are being charged for. The Act requires disclosure of all fees, charges, and assessments. M.G.L. c. 140, § 32P; 940 C.M.R. 10.03(4).

Any costs of developing the space (for example, engineering, grading, construction of roads, driveways, water and sewer lines and utilities) must be separately disclosed to a home purchaser. Such development costs should reflect the actual cost of developing the space and should be passed on separately – either through an installation fee or a capital improvement assessment – but not as part of the price of your new home. This is important if you are financing your new manufactured home. Mingling development costs with the price of the home can incorrectly inflate the amount that you have to finance and the amount that you have to borrow. The result can be that when you attempt to pay off your loan (either at sale or refinancing, for example), you may well find that the outstanding balance on the loan exceeds the resale price or market value of the home. This can make refinancing or sale difficult or impossible.

#### 3. Proof of ownership

Ownership of a manufactured home is usually proven by a bill of sale or certificate of origin.<sup>27</sup> If you are buying a new home from a dealer, the dealer is required by state law to provide a certificate of origin. M.G.L. c. 90D, § 6. If you are buying a previously owned home, it is recommended that you obtain a notarized bill of sale as proof of ownership. You may not receive a certificate of origin for previously owned homes, because, unlike motor vehicle certificates of title, certificates of origin do not have to be signed over to subsequent purchasers of the manufactured home.

4. Taxes

a. **Sales tax.** If you buy a new or used manufactured home from a dealer, you will have to pay the Massachusetts sales tax on the sale of the new or used home. The sales tax does not apply, however, if you purchase your used home directly from a homeowner.

b. **Monthly license fee in place of property tax.** For tax purposes, manufactured homes are classified as personal property and generally exempted from real property taxes.<sup>28</sup> M.G.L. c. 140, § 32G; M.G.L. c. 59, § 5, cl. (36). In place of a property tax, homeowners pay a monthly license fee, which is collected by the community owner/operator and turned over to the town. M.G.L. c. 140, § 32G.<sup>29</sup> The amount of the license fee is determined by your local city or town and varies from \$6 -\$12 per month. The community owner/operator, not the residents, is responsible for paying the real estate taxes on the underlying land, but the owner/operator may recover those costs through the rent charged to residents.

5. Existing liens and debts of previous resident

You cannot be required to pay any rent, taxes or other charges owed by the prior owner of your home. A community owner/operator, however, may place a lien on a manufactured home under certain circumstances, such as when there is unpaid lot rent. M.G.L. c. 140, § 32J; M.G.L. c. 255, § 25A. The community owner/operator is required to disclose any such pre-existing lien to a prospective new occupant. 940 C.M.R. 10.07(1)(d). Before you purchase your home, therefore, you should make sure that all such liens have been paid off by the previous homeowner.

6. Right of rescission

If, for any reason, your application for tenancy in a manufactured housing community is rejected, then you have the right to cancel any agreement you have made to purchase a home in that community. This is true also if the seller or his agent has misrepresented or failed to disclose to you that the home may not be permitted to remain in the community. 940 C.M.R. 10.06(3)(a)&(b).

B. Construction or Installation Problems

After buying your home, if you experience problems relating to faulty construction or installation of your home, you should contact the seller, dealer and/or the manufacturer, as your problem may be covered by the manufacturer's warranty, or an express or implied warranty. Failing in that, you should contact your local consumer program, which may be able to mediate your complaint.<sup>30</sup> You may also decide to hire a private attorney to enforce your rights.

1. Construction or installation defects

Federal regulations created by authority of the National Manufactured Housing Construction and Safety Standards Act of 1974 set construction standards for all manufactured homes built after June 15, 1976. As a result of these standards, most manufactured homes when they leave

the factory are as structurally sound and durable as site-built homes. However, problems may occur between the factory and the manufactured home pad, either as a result of improper manufacture or faulty installation. The most commonly reported defects are buckling walls, frame damage, roof and ceiling leaks, malfunctioning doors and windows, and problems with electrical, plumbing, and heating systems.

## 2. Warranty protections

There are three types of warranties that protect you against economic loss caused by defects in your manufactured home or its components. These are manufacturer's written warranties; express warranties; and the statutory implied warranty of merchantability.

a. **Written warranties.** If you purchased a new manufactured home within the past several years, you probably were given a written warranty covering certain defects for a specified period of time. Typically, such a warranty offers protection against all defects or against substantial defects in materials and workmanship in the manufactured home. Non-structural items, such as dishwashers, washers, dryers, furniture or rugs, may also be separately warranted by their manufacturers.

A warranty protecting you against loss from "substantial defects" should cover all but strictly cosmetic damage. You should take advantage of this warranty if you experience problems with your manufactured home. Contact your dealer concerning any problems you are experiencing which you believe may be covered by the warranty. If an item is covered by the warranty but the dealer either refuses to perform his obligations under the warranty or claims that the warranty does not cover the problems you are encountering, he may have breached the warranty. M.G.L. c. 106, § 2-213.

If you obtained the financing necessary to purchase a new manufactured home through either the Veteran's Administration or the Federal Housing Administration, federal law requires that the manufacturer provide you with a one-year warranty. 38 U.S.C. § 1818 (h)(2)(B)(i) (1976); 24 C.F.R. 210.520(c) (1979).

b. **Express warranties.** Express warranties can be created in three ways: by any statement or promise; a description of the manufactured home; or the use of a sample model - as long as the statement, description or model goes to the basis of the bargain. M.G.L. c. 106, § 2-213.

Many people believe that if these promises are not put in writing they are unenforceable. That is not necessarily the case. If you were promised or shown something which played a large part in your decision to purchase a home, and the promise was never fulfilled or the description or model varied substantially from what you ultimately received, then the law may have been violated, and you may be entitled to relief.

c. **Implied warranties.** In addition to written and express warranties, there is also an implied warranty that the manufactured home is reasonably suited to the use for which it was designed. M.G.L. c. 106, § 2-314. This is the "implied warranty of merchantability," which is often more extensive and of longer duration than written or express warranties.

Unlike a written or express warranty, the warranty of merchantability does not cover specific defects, rather it covers everything necessary to make the home fit for the ordinary purpose for which it will be used. For example, if the rugs in your home wore out after only six months use, then (unless you subjected them to abnormal wear and tear) the implied warranty was probably breached. However, if the rugs wore out after ten years, the implied warranty probably would not have been breached, as the rugs were fit enough for ordinary use to last ten years.

The implied warranty of merchantability is potentially the most significant warranty protection you have. It cannot be disclaimed or modified by the dealer or manufacturer, despite any warranties they may give you and despite anything they may say or include in a written document. M.G.L. 106, § 2-316A. It usually covers defects that occur after written and express warranties have expired. It also usually applies to defects that were never covered by any written or express warranties. Damage caused by faulty setup, for example, is seldom covered under a manufacturer's written or express warranties, but may be covered by the warranty of merchantability.

If you have had problems with your manufactured home, ask yourself whether a reasonable person could have expected such problems to occur within the time frame they did. If the answer is no, then the warranty of merchantability may well have been breached.

### C. Becoming a Manufactured Housing Community Tenant

Once you decide to purchase a manufactured home, you are also becoming a tenant of a manufactured housing community. Such tenancies usually begin with an application process, and are governed by the community rules, the required written disclosures, and, in some communities, a written lease or occupancy agreement.

#### 1. Applying for tenancy in a manufactured housing community.

Most manufactured housing communities require tenancy applications from prospective tenants and subtenants (residents who rent the home and sublease the lot from the homeowner).<sup>31</sup>

##### a. Application process

(1) **Credit verification.** It is reasonable for a community owner/operator to require you to complete a credit application so that your creditworthiness can be determined. However, you cannot be required to provide more than three credit references. 940 C.M.R. 10.03(6). The community owner/operator must bear the costs of credit verification, and may not charge you any other fees associated with your tenancy application. 940 C.M.R. 10.03(2)(c). All credit verifications must be accomplished through recognized credit verification sources and in accordance with applicable law. 940 C.M.R. 10.03(6).

(2) **Ten day approval period.** If the owner/operator fails to notify you of any rejection and reasons for the rejection within ten days of his or her receipt of your tenancy

application, then your application will be deemed approved. 940 C.M.R. 10.07(2).

(3) **What if your application is disapproved?** If your tenancy application is rejected and you have already signed a purchase contract for your manufactured home, you have the right to rescind your agreement to purchase the home. 940 C.M.R. 10.06(3)(b).

(4) **Application and entrance fees prohibited.** A community operator may not charge you an application or entrance fee when you become a resident. 940 C.M.R. 10.03(2)(a) and (c).

b. **Limitations on disapproving tenancy applications.** As long as you meet the currently enforceable rules of the community and provide reasonable evidence of your financial ability to pay the rent, the community owner/operator must allow you and your household to reside in the community.

(1) **No objections based on condition of home or lot.** As a general rule, the community owner/operator may not refuse your tenancy application because the home or lot does not comply with the community rules. 940 C.M.R. 10.07(6)(c). He also may not object on the basis of the age of the home, or because the home was constructed prior to 1976 and does not conform to current federal construction standards. 940 C.M.R. 10.07(6)(a) & (b). There is one exception: the owner/operator may object to the condition of the home or lot if, before the home was offered for sale, he notified the selling homeowner in writing that the home was not in compliance with a community rule, gave him a reasonable amount of time to correct the condition, and the homeowner failed to correct the condition. 940 C.M.R. 10.07(6)(c).

(2) **Monies owed to community owner/operator.** The community owner/operator may not refuse your residency application because the previous resident allegedly owes back rent, taxes, or other charges. The owner/operator also may not attempt to collect any of those prior debts from you. 940 C.M.R. 10.07(1)(b).

(3) **Unlawful discrimination.** A community owner/operator may not refuse you or members of your household entrance into the community based upon your race, religious creed, color, national origin, sex, sexual orientation, age, ancestry, marital status, familial status, veteran status or membership in the armed forces, blindness, hearing impairment, or other handicap, or upon any other ground prohibited by either the Federal Fair Housing Act (42 U.S.C. §§ 3601-3619), or the states anti-discrimination law (M.G.L. c. 151B). See 940 C.M.R. 10.03(1)(b)&(c).<sup>32</sup> You cannot be refused entrance because you are on welfare, have a governmental rental subsidy, such as a Section 8 housing certificate, or have children.

(4) **Unlawful occupancy restriction.** A community owner/operator may not refuse you or members of you household entrance into the community based upon an unreasonable restriction on the number of occupants allowed in your home. See section II.D.7.d below.

## 2. Required written disclosures

The community owner/operator must disclose, in writing, all conditions of occupancy to: prospective tenants; any existing tenants whose current tenancy is being amended, renewed or extended; and approved subtenants. The required written disclosures include, at a minimum, the following:

- the amount of rent;
- a list of usual charges and fees (if you request it, you must also be given a statement of charges and fees over the past 12 months, and an estimate for the next 12 months);
- the proposed terms of occupancy;
- the names and address of all owners and operators of the community (if the community is owned by a corporation or other entity, you must be given the names and addresses of the principal beneficial owners of the corporation);
- the community rules;
- the size and location of the manufactured home site, including any known defects;
- a description of the common areas and facilities, with any restrictions on their use; and
- a verbatim copy of the "Important Notice Required By Law" set forth in M.G.L. c. 140, § 32P (Appendix D).

These written disclosures must be signed and delivered to residents at least 72 hours before the signing of any occupancy agreement or the beginning of the new occupancy.<sup>33</sup> 940 C.M.R. 10.03(4).

## 3. Your written occupancy agreement

a. **What is an occupancy agreement?** An occupancy agreement is different from the community rules, which are discussed below. In essence, an occupancy agreement is any written agreement between you and your community owner/operator that sets out both parties' rights and responsibilities. It can take the form of a lease or it can be an entirely separate document addressing the terms of your occupancy other than rent and when your tenancy ends.

b. **Prohibited provisions.** There are limitations on what your community owner/operator may legally include in your occupancy agreement, such as:

- (1) Your agreement cannot contain any provision that conflicts with any provision of

the Act or the Attorney General's Regulations. 940 C.M.R. 10.02(2). Thus, you cannot be required to give up any of your legal benefits or protections, and any such provision is unenforceable.

(2) If your agreement provides that your community owner/operator can recover attorneys' fees and expenses from you for a violation of the occupancy agreement, then it must also provide that you may recover your attorneys' fees and expenses from the community owner/operator if you should prevail in a legal dispute between you. 940 C.M.R. 10.03(2)(j).

(3) The occupancy agreement cannot require you to maintain insurance, unless it is available at reasonable rates. M.G.L. c. 140, § 32L(3); 940 C.M.R. 10.03(9)(a).<sup>34</sup>

(4) The occupancy agreement cannot impose liability on you without regard to whether you are at fault. 940 C.M.R. 10.03(9)(b). For example, if someone is injured on your lot by a falling tree branch, your community owner/operator cannot shift all potential liability to you in the occupancy agreement.

(5) Your occupancy agreement may not include any restriction that is unreasonable, unfair, or unconscionable. 940 C.M.R. 10.02(1). This broad provision effectively prevents your community owner/operator from imposing in your occupancy agreement any requirement that he could not impose in the community rules.

c. **No unilateral changes.** An occupancy agreement cannot be changed during the period specified in the agreement, unless you and your community owner/operator both agree to do so. During the period of the agreement, your community owner/operator may not change your agreement about rent, impose a new fee, or change any other terms or conditions of your tenancy, except to the extent specifically provided either in the occupancy agreement or under any applicable local rent control law. 940 C.M.R. 10.02(8).

#### 4. Types of tenancies

Some of your rights as a tenant are determined by what kind of tenancy you have. In manufactured housing communities, there are two main types of tenancies: tenancy by lease and tenancy by will.

a. **Tenancy by lease.** A lease is a written agreement between a community owner/operator and a tenant, which both of you must sign. Within 30 days of signing it, your community owner/operator must give you a copy. The lease must include the following information: the amount of rent; the date on which your tenancy ends; the amount of your security deposit, if you paid one; all your rights concerning the security deposit; and the names, addresses, and phone numbers of your community owner/operator, every other person responsible for maintaining the property, and the person authorized to receive notices and court papers. During the time period of the lease, your community owner/operator cannot change your agreement on rent or charge you new fees.

There are two major advantages to having a written lease. First, a lease offers you more security because your community owner/operator cannot evict you until your lease ends, unless you violate or "breach" your lease. Second, your community owner/operator cannot change your agreement on rent until the term of the lease is over. The primary disadvantage of a lease is that if you move out before your lease ends, your community owner/operator may try to force you to pay the rent until your lease ends. Whether you have to do so depends on the circumstances, such as whether the community owner/operator began to look for another tenant as soon as you gave notice that you were leaving.

**(1) Five-year lease option.** Under the Manufactured Housing Act, a community owner/operator must make a good faith offer of a five-year written lease to each tenant.<sup>35</sup> This is true whether you are a new tenant, or you are already living in a community and the community owner/operator is renewing or extending your tenancy. The rent offered for the five-year term must be at fair market rental rates;<sup>36</sup> and where there is local rent control, the rent is further subject to those laws. M.G.L. c.140, § 32P; 940 C.M.R. 10.03(5).

**b. Tenancy at will.** If you are living in your community with the permission of the community owner/operator but without a written lease, you are a tenant at will. This type of tenancy is also referred to as a month-to-month tenancy, because tenants are usually required to pay rent once a month, in advance. The law says you are a tenant at will if: you have an oral agreement to rent; you have a written lease that does not state the date on which your tenancy will end or the amount of the rent; your written lease has ended or "expired," you have not signed a new lease, and your community owner/operator continues to accept your rent without objection; or you have a written tenancy at will agreement that says you have a month-to-month tenancy.

**c. Sub-tenancy or assignment.** If you rent, instead of purchase, a manufactured home from a homeowner, and you assume the responsibility for the lot rental payment, then you are a subtenant or assignee of the manufactured housing lot.<sup>37</sup> Many manufactured housing communities require a potential sub-tenant or assignee to undergo the same application and approval process as that for tenants.

## 5. Community Rules

Under the Manufactured Housing Act, a community owner/operator may have rules governing residents' use of the community. M.G.L. c.140, § 32L(1). Before you agree to rent a lot in a community, the community owner/operator is required to give you a set of these rules, which you should read carefully. A "substantial" violation of a rule may create a basis for termination of your tenancy and eviction. M.G.L. c. 140, § 32J. See section II.K.2.b below.

**a. All rules must be in writing.** All community rules must be in writing, and must be sufficiently detailed and clear so that you and other residents understand what you are required to do, what you are prohibited or restricted from doing, and any other limitations that are placed on your residency. 940 C.M.R. 10.04(2)(b).

b. All rules must comply with the law and be reasonable. Rules are unenforceable if they violate the Act, the Regulations or other laws protecting the health, safety or welfare of consumers. Rules are also unenforceable if they are unreasonable, unfair, unconscionable or deceptive. Some of the standards for reasonable terms and conditions of occupancy are set forth in the Attorney General's Regulations. E.g., 940 C.M.R. 10.03 - 10.05.

c. Signature requirement prohibited. Unlike a lease, community rules are not a contract; you cannot be required to sign the rules, although your community owner/operator can require you to sign a separate receipt acknowledging that you have received a copy of the rules. Your community owner/operator is required to sign the rules, however. M.G.L. c.140, § 32P.

d. All rules must be uniformly enforced. Your community owner/operator may not selectively enforce the community rules, that is, he may not apply a rule against you and not against others. M.G.L. c. 140, § 32L(2); 940 C.M.R. 10.04(2)(b).

e. All rules must be approved by the Attorney General's Office and the Department of Housing and Community Development. The community's rules are subject to the review and approval of the Consumer Protection and Antitrust Division of the Attorney General's Office (the "AGO") and the Director of DHCD. M.G.L. c. 140, § 32L(5); 940 C.M.R. 10.04(1)(a)(2).

f. Approval process. When your community owner/operator issues either new rules or changes to existing rules, he will propose a date upon which he would like to make the proposed rules effective. He must follow the procedure set forth at M.G.L. c. 140, § 32L(5) and 940 C.M.R. 10.04(3), which can be summarized as follows:

- At least 75 days before the proposed effective date, the community owner/operator must both send a copy to any residents' or tenants' association and conspicuously post a copy in a common area of the community. These copies must be accompanied by a notice informing residents of their right to submit comments to both their community owner/operator and the AGO. 940 C.M.R. 10.04(3)(a). A model notice satisfying the regulatory requirements is attached as Appendix E.
- At least 60 days before the proposed effective date, the owner/operator must send the rules by certified mail to both the AGO and the Director of DHCD for approval.
- At least 30 days before the proposed effective date, the owner/operator must send or deliver to each resident a copy of the rules, any amendments or deletions made since the submission to the AGO and DHCD, and copies of the certified mail receipts showing that the rules were properly submitted to both the AGO and DHCD.

- Following submission of the rules, the AGO will review the rules, consider any written comments received from residents, and ultimately respond to the community owner/operator with written objections, where necessary. The AGO will always attempt to complete its review within 60 days.
- By the proposed effective date, if your community owner/operator has not received any response from the AGO or DHCD concerning the acceptability of the community rules, he or she may temporarily put the proposed rules into effect. However, once he or she is subsequently notified that any rule is not satisfactory to the AGO or DHCD, each such rule, from that point onward, is no longer enforceable, and must be modified as necessary for approval and then redistributed to residents.

**g. The Attorney General's Model Rules for Manufactured Housing Community Living.** The Attorney General's Office has developed a set of model community rules, which are attached as Appendix C. All community owner/operators are encouraged to use these rules for their communities. Owner/operators who adopt the model rules must still follow the approval process described above, but using the model rules can save time and resources, because owner/operators can be assured that the rules are reasonable, meet the requirements of the Act and Regulations, and will be favorably reviewed by the Attorney General's Office.

**h. All rules must be conspicuously posted.** The community rules must be conspicuously posted near the entrance to the community or in a conspicuous place at the office of any on-site manager. M.G.L. c. 140, § 32D.

**i. Right to legally challenge community rule.** If you believe that any rule is unlawful, you may challenge that rule in any court of competent jurisdiction. As long as you have a basis for your challenge, you may exercise this right to challenge any rule, even if it is temporarily enforceable pending the determinations of the AGO and DHCD, or if neither the AGO or DHCD has objected to it. 940 C.M.R. 10.04(3)(b).

## **6. Security Deposit**

Your community owner/operator can require you to pay a security deposit equal to one month's rent on your lot. The purpose of a security deposit is to protect the community owner/operator in case you damage the lot or leave owing rent. A security deposit is subject to the strict provisions of M.G.L. c.186, §15B, the Massachusetts security deposit law. Because the law considers this deposit your money, your community owner/operator must give you a written receipt<sup>38</sup> and a statement that describes the condition of your lot upon your renting it, and must hold your money in a separate bank account, pay you annual interest on it, and refund it promptly at the end of your tenancy. Any violation by your community owner/operator of the security deposit statute entitles you to an immediate return of your entire deposit, and, under certain circumstances, up to treble damages.

D. Community Conditions

The conditions under which you will live in your manufactured housing community will most likely be addressed in the community rules. The rules must comply with the standards established under the Act and the Regulations. The substance of these standards are described below.

1. Community owner/operator's maintenance responsibilities

a. Common areas. It is the community owner/operator's responsibility to keep all common areas and facilities clean, safe, in good repair, and in compliance with any applicable health and safety laws. 940 C.M.R. 10.05(7); 105 C.M.R. 410.602. This requirement includes plowing and maintaining the community common areas and roadways, as discussed below, and providing and paying for certain safety features such as lighting, where necessary.

b. Garbage pickup. A community owner/operator must provide a system for the final pickup of garbage and rubbish. Your community owner/operator may establish any reasonable schedule for garbage pickup and may require you to comply with community rules regarding storage of garbage for pickup. You may also be required to comply with recycling rules imposed by the town in which the community is located. Your community owner/operator cannot impose a direct fee for the pickup of recycled materials, but these costs may be recovered through non-discriminatory rent increases. 940 C.M.R. 10.05(8).

c. Road maintenance. A community owner/operator is responsible for making sure that the community roadways are safe and in good repair, and is responsible for removing debris, filling potholes, and snowplowing. 940 C.M.R. 10.05(9).

d. Hazardous conditions. A community owner/operator is responsible for removing or repairing naturally occurring hazardous conditions that an appropriate governmental authority determines pose a risk to the safety of tenants or their homes, for example, hazardous trees or tree limbs. 940 C.M.R. 10.05(10).

e. Utility systems maintenance. A community owner/operator is responsible for supplying, maintaining, repairing and paying for utilities to the point of connection at each manufactured home. The required utilities include drinkable water, a functioning sewage disposal system, electricity, and natural gas or other heating fuel unless that fuel is individually metered. 940 C.M.R. 10.05(4). See section II.D.2.d & II.D.8 below.

f. Upkeep of driveways and sidewalks. It is your community owner/operator's responsibility to repave driveways and sidewalks when necessary, as these are permanent elements of your lot or the community. 940 C.M.R. 10.04(5)(f).

g. Compliance with sanitary standards. When the local board of health issues the annual license to a manufactured housing community, the Department of Environmental Protection ("DEP") receives notification from the board and is authorized to then inspect the manufactured housing community to ensure that the water supply and sewerage disposal system are sanitary. A manufactured housing community has thirty days in which

to correct any noncompliance. If the community fails to comply, the local board of health shall revoke or suspend the license until compliance occurs. M.G.L. c. 140, § 32B. The board of health is further required to inspect all communities occasionally to ensure that the communities are in compliance with sanitary requirements; the board may suspend or revoke a license for noncompliance. M.G.L. c. 140, § 32C. A daily fine of \$100 is imposed for each day a community remains unlicensed or in violation of the Act. M.G.L. c. 140, § 32E.

## 2. Tenant's maintenance responsibilities

a. **Upkeep of home's exterior and lot.** Your community owner/operator can require you to keep your home's exterior and lot neat and in good repair. 940 C.M.R. 10.04(5)(a). He must be specific in the community rules, however, about what is required of you in this respect.

b. **Compliance with community aesthetic standards.** A community owner/operator may set "aesthetic standards" governing the look or style of the site and the home's exterior. Aesthetic standards must be "reasonable" – that is, not overly burdensome or expensive.

(1) **Specificity required.** Any community rule that requires you to comply with aesthetic standards must be specific. A rule requiring simply that you keep your home's exterior in good repair is too vague. An acceptable rule would require, for example, that you maintain the exterior of your home clean or free from visible cracks, rust, or peeling paint, or keep your lawn from becoming overgrown.

(2) **Rules requiring major changes in the style of the home.** In general, aesthetic standards must be applied consistently throughout the community and disclosed before you enter the community. 940 C.M.R. 10.04(5)(b). You should not be required to make major changes to your home after you have been living in the community for some time. Newly adopted aesthetic standards requiring such changes generally are unreasonable, except where they apply only to new homes being brought into the community.

(3) **Pre-1976 homes.** A community owner/operator may not force a tenant who owns a pre-1976 home to change it in a way that is impractical due to the design or poor physical condition of the home. 940 C.M.R. 10.04(5)(b).

c. **Interior of home.** You are responsible for making sure that the interior of your home complies with governmental health, safety, and other laws. Only appropriate governmental authorities (e.g., the local board of health or fire department), however, and not your community owner/operator, may enforce these laws. 940 C.M.R. 10.04(6).

d. **Utilities inside your home.** Damage to, or malfunction of, any utilities inside your home is your responsibility. Although your community owner/operator is generally responsible for utilities and connections outside your home, you may be responsible for any damage that you negligently or purposely cause to these systems or connections (e.g., if

you stop up a sewage disposal system through improper disposal). 940 C.M.R. 10.05 (4)(d). Finally, your community owner/operator may require you to upgrade your interior plumbing or wiring systems only to the extent that he or she can demonstrate the need for the upgrade to ensure the health and safety of residents, and then only on a non-discriminatory basis.

e. **Failure by tenant to maintain home's exterior or lot.** If you fail to maintain your lot or home as required by reasonable community rules, then your community owner/operator may have the necessary work done and charge you for the maintenance. Your community owner/operator cannot do this, however, unless you request such work, or the work is accomplished in compliance with 940 C.M.R. 10.04(5)(d)(1) - (4). In particular, the community owner/operator cannot charge you for such maintenance work unless both your occupancy agreement and the community rules allow it, and the owner/operator provides you with written notice of the specific work required, the amount you will be charged, and all other information detailed in 940 C.M.R. 10.04(5)(d). If you receive this notice and do not have the work performed yourself, then your community owner/operator can have the work performed at your expense no sooner than 10 days from the date you receive the notice.

### 3. Pet ownership

Pet ownership can enhance both happiness and security for many people. In addition, pet ownership can be of critical importance to a person who is elderly, handicapped, or lives alone. At the same time, pets can be irritating or intimidating to others. A dog who barks incessantly, runs freely, gets into garbage, or leaves droppings in common areas or yards, is not a welcome member of a community.

a. **Service animals.** Your community owner/operator may not restrict seeing-eye dogs, or other service animals that are necessary to assist a disabled resident.

b. **Indoor pets.** Your community owner/operator may not restrict pets that live solely within your home, so long as they do not create a disturbance to other tenants. 940 C.M.R. 10.04(10). Examples of a such a disturbance might include: a pet that frequently barks and disturbs others; or a pet which would pose a substantial danger to other residents if it escaped outside, and whose owner has not taken reasonable precautions to ensure against such a problem.

c. **Outdoor pets.** Your community owner/operator may reasonably restrict pets that go outside your home. 940 C.M.R. 10.04(10). For example, it is reasonable to require such animals: to be restrained by a leash or runner; to be picked up after, both on and off your lot; and to be monitored so that they do not disturb your neighbors or agitate other outdoor pets.

d. **Pet fees.** Your community owner/operator may not charge any type of pet fee or rent for an indoor pet or a service animal. 940 C.M.R. 10.03(2)(g). A fee for any other pet may be charged only if the fee directly relates to the actual cost of providing a pet service or facility. 940 C.M.R. 10.03(2)(g).

#### 4. Leasing your home and subleasing your lot

Some community owner/operators and residents alike have concerns when residents lease their homes and sublease the underlying lot to a subtenant. On the one hand, neighboring residents may not feel comfortable with the turnover in your home, especially if it is a retirement community, and may worry that you will not maintain your home as well if you are not living there yourself. On the other hand, under some circumstances subleasing is necessary to avoid hardship: For example, where residents must relocate immediately – because of a new job or the need to move into a nursing home, for example – but cannot sell their home immediately. For these residents, leasing the home may be the only way to cover the expenses of keeping the home. Indeed, if you live in a community which is under a notice of discontinuance, selling your home may be virtually impossible and leasing may be your only option during the two-year discontinuance period.

- a. **Unreasonable restrictions prohibited.** A community owner/operator may not place “unreasonable” restrictions on your ability to lease your home or sublease the underlying site. 940 C.M.R. 10.03(7). Whether a restriction is reasonable or not depends on the circumstances. For example, a community that offers lifetime leases may reasonably restrict assignment of a lease (but not necessarily subleases). It is probably unreasonable, however, to restrict subleasing if the restriction would put the homeowner in financial jeopardy. For example, if a homeowner is relocated by his employer, or becomes ill and cannot live there anymore, and then is unable to sell his or her home near its market value within a reasonable amount of time, a rule forbidding subleasing would be viewed as unreasonable.
- b. **Subleasing restrictions must apply equally to all homes in the community.** Any restrictions on leasing homes and subleasing the lot must be applied uniformly to all homes in the community, including homes owned by the community owner/operator. Thus, a community owner/operator or manager who owns and leases homes within the community cannot prohibit you from leasing your home. 940 C.M.R. 10.03(7).
- c. **Communities under a notice of discontinuance.** Where a community is under a notice of discontinuance, no subleasing restrictions are permissible. Since it is unlikely that a tenant can sell his or her home under these circumstances, subleasing must be permitted. 940 C.M.R. 10.03(7).

#### 5. Guests

As a resident of a manufactured housing community, you have the right to invite guests into your home. Your community owner/operator may not attempt to restrict who is permitted to visit your home, how long they may stay, or when they may visit. 940 C.M.R. 10.04(4).

- a. **Who is a guest?** The Regulations define a guest as a person who lives in your home for fewer than 90 days in any 12 month period. 940 C.M.R. 10.01.
- b. **Guest registration prohibited.** A community owner/operator may not require the registration of your guests. 940 C.M.R. 10.04(4).

- c. **Retirement communities.** In a qualified retirement community, restrictions on under-age guests and their length of stay, activities, and access to facilities may be reasonable, even though such restrictions would not be permissible in a family community.
- d. **Guest fees.** Your community owner/operator may not charge a fee for your guests, with one exception. If permitted under your written occupancy agreement, your community owner/operator may charge a user fee for your guest's use of a community recreational facility or storage area, so long as the fee reasonably relates to the cost of providing and maintaining the facility. 940 C.M.R. 10.03(2)(h).
- e. **Guest parking.** If your community has a guest parking lot, guests can be required to park there. Otherwise, your guests cannot be unreasonably restricted from parking at your lot or on adjacent roadways. 940 C.M.R. 10.04(7).

#### 6. Common areas and facilities

"Common areas and facilities" are defined by the Regulations to include areas and facilities in the community that fall outside a tenant's own lot, but are generally accessible and available for use by tenants. Example of common areas and facilities include the community's roads, sidewalks, common parking areas, common storage areas, common social and recreational areas – such as swimming pools, playgrounds, pet exercise areas, and community centers – and common operational facilities and utilities. 940 C.M.R. 10.01. Before you begin or renew your tenancy, your community owner/operator is required to provide you with a written description (*i.e.*, in your written disclosures, lease, or occupancy agreement) of all common areas and facilities, and any restrictions on their use, before you begin or renew your tenancy.

- a. **Access by tenants.** Common areas and facilities should be generally available for use by any tenant. Your community owner/operator must conspicuously post the hours of operation for any common areas or facilities that are not open at all times, such as a swimming pool or a community center. 940 C.M.R. 10.05(7). Physical access to certain types of common facilities – specifically, utilities or sewage disposal systems – may be reasonably restricted by your community owner/operator in the community rules or written disclosures. 940 C.M.R. 10.03(4)(g).
- b. **Access by guests.** Your guests may not be unreasonably restricted from community services or facilities. A restriction may be reasonable if it is based on limited resources, such as insufficient space. For example, where space is limited, the community rules might reasonably limit the number of guests that you may invite at one time to a community pool or other common area, or a retirement community might reasonably limit access by children to certain facilities so as to preserve the residents' quiet enjoyment of the community. 940 C.M.R. 10.04(4).
- c. **Access fees.** In general, you may not be charged a fee for your use of a common area or facility, but there are some exceptions. A "user's fee" may be charged for recreational or storage areas, as long as it reasonably relates to the cost of providing and maintaining the common area or facility. In addition, you may be charged a reasonable fee if you use common areas or facilities for a private recreational or social function that you host. 940

C.M.R. 10.03(2)(d) & (h).

d. **Access for residents' meetings.** Common areas or facilities, if not otherwise in use, may be used by residents to meet to discuss the community's affairs or meet with public officials, political candidates or representatives of other manufactured housing communities. No fee may be charged for such usage. 940 C.M.R. 10.04(9).

e. **Road access.** Your community owner/operator is responsible for ensuring that the community's roads are accessible to you, your guests, service providers, emergency vehicles, school buses, and elderly or handicapped vans or buses. If the width of the community roads will not accommodate school buses, then your community owner/operator must provide a central bus stop within your community. A community owner/operator may impose reasonable security measures designed to provide tenant security, such as a security booth at the community's entrance, so long as emergency vehicles have access at all times. 940 C.M.R. 10.05(9).

f. **Restrictions must be "reasonable."** Any restrictions on the use of common areas or facilities must be reasonable and apply equally to all residents. See section II. C.5.b & d above. Imposing special restrictions on families with children, therefore, may not be reasonable. Rules that impose curfews or prohibit children from leaving their lot without an adult, bicycle-riding, ball-playing, or other playing in common areas are usually unreasonable. Children should be permitted the same freedoms they would enjoy in a single family neighborhood in your town. The only exception is in a qualified retirement community, where children's activities may be restricted in order to preserve the quiet enjoyment of the residents. 940 C.M.R. 10.03(1)(b) - (d).

## **7. Tenant's right to privacy and control over the leased homesite**

As a resident of a manufactured housing community, you should generally be accorded the same privacy and control over your homesite as if you had rented an apartment, or purchased a condominium or site-built home in a development. Community owner/operators have a legitimate right to enact rules to protect the health, safety, and quiet enjoyment of the community, and to keep the community neat and clean. However, rules that purport to govern the conduct of a homeowner within his or her own home, or on his leased lot – where safety, health, or aesthetics are not at issue – are usually unreasonable.

a. **Access to your home by the community owner/operator.** Your community owner/operator may not enter your home at any time without your prior written consent, which you may revoke at any time. The written consent cannot be contained in a lease, occupancy agreement, inspection report, or other such general document, but must be set forth specifically in a separate document which deals with no other subjects. 940 C.M.R. 10.03(8)(a).

b. **Access to your home site by the community owner/operator.** In general, your community owner/operator may not enter upon your leased lot without your permission. He may enter the site without permission only to check if it has been abandoned, inspect it, show it prior to re-leasing it, or make repairs in accordance with 940 C.M.R. 10.04(5)(d).

Normally, before entering onto your lot your community owner/operator must give you "reasonable" notice – i.e., 24 hours notice – unless there is an emergency that creates an immediate threat to the property or tenant safety. 940 C.M.R. 10.03(8)(b).

See M.G.L. c. 186, §15B(1)(a)(i), (ii) & (iii).

c. **Control over the interior of your home.** You have the right to control the interior of your own home. Thus, it is generally unreasonable for the community owner/operator to impose rules relating to interior decorating, interior equipment or maintenance, activities inside your home, or other aspects of your personal life. 940 C.M.R. 10.04(6). The owner/operator may regulate conduct that may have a negative effect on other community residents. Thus, it is generally reasonable to limit noise coming from your home during certain hours, regulate residents' disposal of waste into a community sewage disposal system, or restrict fire hazards.

d. **Occupancy.** Your community owner/operator may not restrict the number of occupants of your home beyond any applicable and valid restrictions in local, state or federal law. 940 C.M.R. 10.03(1)(a). Occupancy restrictions may be invalid if they have the effect of discriminating unlawfully. Examples of such unlawful discrimination would be restrictions which, in general access communities, have the effect of denying housing to families with children. Also, restrictions that result in denial of housing to individuals with disabilities may also be impermissible. In general, according to the standards of the United States Department of Housing and Urban Development, it is reasonable to allow no more than two persons per bedroom, unless such a restriction, as applied, would result in impermissible discrimination.

e. **Control over your leased homesite.** Just like an apartment renter or a site-built homeowner, you are entitled to use your leased homesite in any reasonable way. Thus, although your community rules may address important concerns related to upkeep or aesthetics, you cannot be subjected to intrusive, burdensome, or arbitrary rules governing your lot. See M.G.L. c. 140 § 32L(1). Examples of such impermissible rules may include, in family communities, prohibitions on children's riding bicycles, or, in all communities, banning the storage of items under your home or in your shed.

f. **Additions or modifications.** If you plan to add to or modify your home or site, your community owner/operator may reasonably require you to submit proposed plans to him in order to ensure that aesthetic standards will be met. However, so long as your proposal complies with local building codes and setback requirements, complies with the community's aesthetic standards, and creates no significant problem for neighboring lots, your community owner/operator should not withhold approval. In general, it is unreasonable to prohibit a homeowner from making necessary modifications – such as a ramp, widened doorway, or handrails – for the purpose of accommodating a disabled household member. See 940 C.M.R. 10.03(1)(c).

g. **Non-residential use of your home or leased homesite.** In general, non-residential activities in your home or at your homesite are permissible, so long as they are consistent with using the home as a residence, comply with local zoning and other laws, and do not substantially disrupt the residential character of the community. For example, yard sales

are generally permissible, but your community rules may reasonably restrict when, where or how they are held. Home offices are also generally permissible, although if your business causes a significant increase in the number of cars traveling through the community, it may not be reasonable. 940 C.M.R. 10.04(8).

**h. Storage beneath your home and on your lot.** As long as you do not create a fire hazard or aesthetic problem, you should be allowed to store your belongings under your own home or in a storage shed on your lot.

**i. Right to choose sellers and suppliers.** You have the right to choose who will perform work on your home, supply you with materials or provide any goods or services you need, such as fuel, furnishings, goods, services, or accessories. Your community owner/operator may not limit you to a particular supplier or group of suppliers, but he may require such vendors to comply with applicable laws and reasonable community rules, including reasonable insurance requirements.<sup>39</sup> A community operator may also restrict residents from using a particular supplier who has been the subject of complaints to the Attorney General's Office, the Better Business Bureau, or applicable government agencies. 940 C.M.R. 10.05(1). Your community owner/operator may not, directly or indirectly, charge, demand or receive any fee, amount, "kickback," or other consideration from any supplier. 940 C.M.R. 10.05(3). Finally, if your community owner/operator offers to perform work or provide you with materials, he or she must also inform you in writing of your right to obtain such goods and services from other providers. 940 C.M.R. 10.05(1)(b).

### 8. Utilities

**a. Required utilities and payment obligations.** Under the Regulations and the State Sanitary Code, your community owner/operator must provide and pay for utility connections for water, a functioning sewage disposal system, electricity, and natural gas or other heating fuel except that which is individually metered. 940 C.M.R. 10.05(4)(b); 105 C.M.R. 410.351. See sections II.D.1.e and II.D.2.d above. You cannot be directly charged for your use of any utility unless there is individual metering by a utility company, and your occupancy agreement provides for such a charge. 940 C.M.R. 10.05(4)(b)(3) & 10.05(4)(e). Your community owner/operator, however, can recover his cost of providing utilities to you indirectly through your rent, as long as such costs are distributed equally among all households. 940 C.M.R. 10.05(4)(c).

**b. Utility shutoffs.** Your community owner/operator may not purposefully shut off any of your utilities, for any reason, without your permission. M.G.L. c. 186, § 14; 940 C.M.R. 10.05(f).

**c. Central fuel systems.** Although generally you are free to use a fuel dealer of your choosing, if your community has a central fuel and gas meter system, your community owner/operator may limit your ability to choose a fuel dealer. However, your fuel charges may not exceed the average prevailing price for such fuel in your locality. M.G.L. c. 140, § 32L(3A); 940 C.M.R. 10.05(2).

**d. Electricity.** Your community owner/operator must supply your home with enough

electricity to meet the reasonable needs of your household and comply with the Massachusetts Electrical Code (527 C.M.R. 12.00). If the electricity supply is inadequate under the Code, the community owner/operator must correct the problem without charge to residents. 940 C.M.R. 10.05(4)(a)(1). Community rules that limit the use of ordinary household appliances are generally issued to address inadequate and unsafe supplies of electricity, and are thus usually unreasonable.

e. **Water.** Your community owner/operator is responsible for supplying your ordinary household needs for drinkable water that is sufficient in both supply and pressure. Your community must be connected to a public water supply system, or an alternative source that does not endanger your health. 940 C.M.R. 10.05(4)(b)(1). Insufficient water supply can sometimes result when a community owner/operator increases the number of homesites in a community without upgrading the water system at the same time. Contaminated water can often result from inadequate sewage disposal systems. Should such conditions occur, your community owner/operator must correct them immediately.

f. **Natural gas.** Your community owner/operator is responsible for providing you with a natural gas connection, provided such a connection is economically reasonable. 940 C.M.R. 10.05(4)(a)(2). In general, it would not be economically reasonable to require a natural gas connection in communities that provide oil heat facilities in a manner that complies with applicable health, safety and environmental laws.

g. **Sewage disposal.** Your community owner/operator must ensure that your household is connected to a sanitary sewage disposal system. 940 C.M.R. 10.05(4)(b)(2). If it is not practicable for your community to be connected to a public sewerage system because of distance or ground conditions, then you must be connected to another means of sewage disposal that complies with the requirements of 310 C.M.R. 15.00. Many communities use septic tanks, which have a limited lifetime and sometimes require periodic pumping. The community owner/operator is responsible for ensuring that, where necessary, periodic pumping takes place and inadequate tanks are replaced. In addition, if your community owner/operator adds new home sites to your community, he or she must ensure that existing sewage disposal systems are not overburdened.

h. **Oil storage tanks.** In recent years, community owner/operators have become concerned about their potential legal liability stemming from the environmental risks posed by leaking underground oil storage tanks. The Regulations require that the cost of removing or replacing an oil storage tank should be initially incurred by the community owner/operator, who is usually better able to pay for or finance these costs up front. Thus, you may not be charged directly for the removal or replacement of oil storage tanks, but your community owner/operator may eventually recover such costs as capital improvements, in the manner allowed by law. 940 C.M.R. 10.03(2)(n). This general rule applies whether the tank is above<sup>40</sup> or below-ground. There is one exception to the general rule: where your negligence has caused the environmental concern or risk posed by the oil tank, you may be held directly responsible for removing or replacing it. 940 C.M.R. 10.03(2)(n).

i. **Paying for failed utilities.** Although community owner/operators generally may recover utility repair costs as capital improvements, there is one important exception: where the

community owner/operator failed to upgrade or repair sewer, water, gas or electrical systems to meet existing minimum standards required by law. 940 C.M.R. 10.03(2)(m). For a further discussion of this exception, see section II.F.2 below.

j. **Who to call concerning utility failure.** If you have concerns that your sewer, water, gas or electrical systems have failed and pose health risks, you should notify your community owner/operator and if necessary, the local board of health or the state Department of Environmental Protection.

k. **Television.** It is generally unreasonable to flatly prohibit television antennae or satellite dishes, as such a rule could substantially interfere with or prevent television reception. Your community owner/operator also may not restrict your access to a cable television service offered by a licensed municipality. M.G.L. c. 166A, § 22. In addition, your community owner/operator may not unreasonably restrict your access to a satellite television transmission service. 940 C.M.R. 10.05(5). A community owner/operator may, however, place reasonable restrictions on the size, type, or location of such equipment, in order to satisfy aesthetic standards. Finally, if you opt not to have cable or satellite television service, your community owner/operator may not require you to receive or pay for such service. 940 C.M.R. 10.05(6).

## 9. Motor vehicles

a. **Parking.** You have the right to park up to two personal vehicles on your own lot. 940 C.M.R. 10.04(7). For guest parking, see section II.D.5.e.

b. **Maintenance.** You generally have the right to perform minor car maintenance or repairs at your lot, such as changing tires or replacing a headlight. The community owner/operator may reasonably restrict you from performing major repairs that may generate debris, waste, or noise. In particular, it is reasonable for oil changes and other maintenance involving hazardous waste to be prohibited. See 940 C.M.R. 10.04(7).

c. **Unregistered and/or uninspected vehicles.** Your community owner/operator may reasonably restrict your keeping unregistered and/or uninspected vehicles at your lot. Such reasonable restrictions would include, for example, prohibiting, for aesthetic or safety reasons, the permanent storage of cars in obviously bad repair. It would be unreasonable, however, to have a blanket ban on unregistered and/or uninspected vehicles, since there are times when a vehicle in good repair may be temporarily unregistered or uninspected – such as before sale, after purchase, or during a temporary period of time when it is not in use, perhaps because the owner is ill, temporarily unable to drive it, or away for an extended period of time.

d. **Motorcycles.** It is generally unreasonable to prohibit the ownership or riding of motorcycles in the community. The rules may reasonably require, however, that motorcycle drivers observe community traffic safety rules and refrain from interfering with residents' right to quiet enjoyment of the community by, for example, unnecessarily revving their engines.

e. **Boat and recreational vehicle storage.** Your community owner/operator may reasonably restrict storage of vehicles – other than your two personal vehicles – such as trailers, boats, recreational vehicles, and off-road vehicles. Reasonable restrictions may prohibit such storage on your lot because, for example, it would substantially interfere with the aesthetic standards of the community.

#### 10. Homeowner associations and individual constitutional rights

Each resident has certain constitutional rights that cannot be prohibited or unreasonably restricted by a community owner/operator: the rights of free movement, speech, assembly, and/or association. Your community owner/operator may not restrict or prohibit tenants from meeting peacefully for any purpose, or prohibit the presence of any public official, candidate for public office, or representative of a tenants' or residents' organization. Many residents exercise their rights by forming associations,<sup>41</sup> and many belong to the statewide manufactured residents' association, the Mobilehome Federation of Massachusetts. Residents' associations serve several purposes, such as keeping residents informed about matters that may affect their residency; or representing residents in discussions or negotiations with the community owner/operator over such matters as rules, rent, or improvements to the community. In addition, the law provides certain special rights and protections to residents' associations and their members.

a. **Right of first refusal to purchase community.** Forming a residents' association is important if you hope to eventually purchase your community and form a cooperative community. The process for purchasing your community and the role of your association is described in section II. J below. See also M.G.L. c. 140, §§ 32R(b) & (c).

b. **Notice of proposed new or amended community rules.** If your community owner/operator proposes to add or amend any community rules, any residents' or tenants' association must be given notice at least 75 days prior to the effective date of the proposed rules. 940 C.M.R. 10.04(3).

c. **Right to meet in common area or facility.** As discussed in section II.D.6.d above, your residents' association has the right to meet, at no charge, in any common area or facility not otherwise in use. 940 C.M.R. 10.04(9)(b).

d. **Freedom from interference.** You and other residents have the right to solicit membership or dues, either orally or in writing, in your residents' association without interference from the community owner/operator. Peaceful canvassing, petitioning of residents, and distribution or circulation of oral or printed information within your community, is permissible for any noncommercial, political, or public purpose. 940 C.M.R. 10.04(9)(d) & (e).

e. **Freedom from retaliation.** A community owner/operator is prohibited from attempting to evict you or failing to renew your tenancy because you are a member of a residents' or tenants' association. 940 C.M.R. 10.08(4)(b).

**E. Rent and Additional Fees**

**1. The amount of rent and rent increases**

The amount of rent and rent increases are often the issue of greatest concern to those struggling to make ends meet. This is especially true in a manufactured housing community where, unlike an apartment dweller, you cannot easily move, and may have to sell your home, if the amount of rent causes you economic hardship. Unless you live in a rent-controlled community, the amount of rent and increases generally are at the discretion of your community owner/operator, with a few exceptions, described below.

**a. Uniform application of rent increases.** In general, any change in rent must be applied uniformly to all residents of a similar class. A rent increase that is not applied uniformly to residents who receive similar services and have similar lot sizes may be unfair under the Manufactured Housing Act. M.G.L. c. 140, § 32L(2).

**b. Tenants with leases.** If you have a written lease, your community owner/operator cannot increase your rent during the period of your lease, unless your lease states clearly and conspicuously the conditions upon which an automatic increase in rent shall be determined. 940 C.M.R. 3.17 (3)(2). In addition, if your lease has what is called a "tax escalator" clause, your community owner/operator may be able to increase your rent during the term of your lease if local property taxes go up.<sup>42</sup> M.G.L. c. 186, § 15C. Moreover, if you have a lease, your community owner/operator must send you notice of any rent increase before the date the lease must be renewed. If you receive a notice of a rent increase after your lease extension or renewal, that notice is ineffective and the new rent is not valid. Your community owner/operator must then wait until your new lease term expires before he or she can change the rent.

**c. Tenants at will.** If you are a tenant at will, your community owner/operator may impose a rent increase at any time, in any amount, as long as proper notice is given and it is uniformly applied. See paragraph (e) below.

**d. Tenants in rent-controlled communities.** In certain cities and towns, residents have petitioned their local officials for rent control of the lots they rent in their communities.<sup>43</sup> If you live in a community that is under local rent control, your community owner/operator cannot increase rent until he has applied for a rent increase, and the local rent board has determined and approved that rent increase under the applicable rent control laws. 940 C.M.R. 10.03(2)(p). Under most local rent control schemes, tenants also have the right to object to proposed rent increases and to apply for rent decreases.

**e. Required notice of a rent increase.** If your community owner/operator wants to increase the rent for tenants at will, he must send a written notice at least 30 days (or one full rental period if it is longer than 30 days) in advance. M.G.L. c. 186, §§ 12-13. See M.G.L. c. 140, § 32J(5). Thus, if you pay rent on the first of the month and your community owner/operator wants a rent increase to be effective as of October 1, he or she must send you notice of a rent increase before September 1. If he or she sends you a rent increase notice on September 1 or any time after September 1, the rent increase would

not be valid until November 1.

(1) **Termination of current tenancy.** Any rent increase that you receive will most likely include a "Notice to Quit." If you receive such a Notice to Quit with a notice of rent increase, do not panic! You do not have to leave by the date on the notice; this is simply a technically required first step before your community owner/operator can terminate your tenancy at the old rent and offer a new tenancy at the higher rent level. If you refuse to pay the increase, however, your community owner/operator, will have the option to begin an eviction case in court. He will only be able to evict you if the court orders you to be evicted.

f. **Your options when you have received a rent increase notice.** In non-rent controlled communities, if you receive a rent increase notice, you have a few options. First, you can simply pay the increase. Alternatively, you and other residents, or your residents' association may be able to convince your community owner/operator to reconsider the amount of the increase. This approach may be successful if residents show that the rent increase is unfair and your community owner/operator wants to maintain a good relationship with his residents. For particularly large increases, local officials may be able to assist in your discussions with your community owner/operator. If you cannot or do not want to pay the increase, then you should try to sell your home. If you do not pay the increase, your community owner/operator may bring an eviction case against you and will likely get permission to evict you. Once that occurs, you can ask the judge for up to six months to sell your home and find a new place to live. In addition, elderly or disabled residents may ask for up to a year to relocate.<sup>44</sup> M.G.L. c. 239, § 9.

g. **Retaliatory rent increases prohibited.** Your community owner/operator cannot raise your rent in retaliation for your asserting your rights. If your community owner/operator increases your rent within six months after you file a lawsuit against him, organize or join a residents' association, or report violations of the state sanitary code or other housing laws to the community owner/operator, his employees, or the board of health or other governmental agency, the law will presume that your community owner/operator is retaliating against you. The law authorizes a monetary penalty of up to three months' rent (or actual damages you suffer, whichever is greater) plus the cost of attorney's fees. The burden will be on your community owner/operator to prove that he was not retaliating against you. M.G.L. c. 186, § 18; M.G.L. c. 239, § 2A; M.G.L. c. 140, § 32N; 940 C.M.R. 10.08(4).

h. **Late rent penalties.** If you are late paying your rent, your community owner/operator may attempt to charge you a late fee.<sup>45</sup> He or she can do so only under certain circumstances: your written occupancy agreement or lease must specifically allow for a late rent fee, and the amount charged must be reasonably intended to compensate the community owner/operator for the delay in payment. In any case, no late rent fee may be charged unless and until your payment is at least 30 days overdue. 940 C.M.R. 10.03(2)(i).

## 2. Additional fees

Any other fees that your community owner/operator charges must be separately disclosed in writing at least 72 hours before the signing of your occupancy agreement, or before your ten-

ancy begins or is renewed, whichever comes first. 940 C.M.R. 10.03(4)(b). The owner/operator may not recover any fee or charge that is not separately listed in the occupancy agreement (and/or written disclosures). See section II.C.2 above.

a. **New fees for old services.** During the term of your occupancy agreement, your community owner/operator cannot start charging you a separate fee for a service or facility that you previously received without charge. 940 C.M.R. 10.03(2)(o).

b. **Per capita fees.** Your community owner/operator is prohibited from charging per capita – or per person – fees for any new household members except under certain circumstances. Any such fee must be based on actual additional costs imposed on your community owner/operator as a direct result of the size of the household.<sup>46</sup> In addition, the total amount of rent charged cannot exceed that paid by other households in your community with the same number of adult residents (over age 18).<sup>47</sup> 940 C.M.R. 10.03(2)(e).

c. **Fees for special services.** If you request that your community owner/operator provide, and he actually does provide, a special service not otherwise required, he may charge you for that service. 940 C.M.R. 10.03(2)(b).

### 3. Keep good records.

It is generally important to keep records of your rent and other fee payments, so as to avoid potential problems later on. Wherever possible, avoid paying your rent in cash unless you receive, at the time of payment, a written, signed, and dated receipt of your payment. In any case, it is generally a good policy to save the written record of your payments for rent or any other fees – whether they are in the form of written receipts, copies of money orders, or canceled checks. In addition, save all letters or written communication to or from your community owner/operator concerning any financial matters.

## F. Capital Improvements

A capital improvement is a major expense – other than ordinary repairs or maintenance – to improve or repair some service or facility in the community. Examples of such capital improvements include connecting your community to town water or sewer systems, or moving in-ground oil storage tanks above-ground to meet environmental concerns. Historically, community owner/operators have sometimes sought to shift the cost of such expensive improvements to tenants by assessing them directly for the costs. However, community owner/operators are usually better able than tenants to obtain financing for such improvements, and large assessments can impose a hardship on many tenants, especially those on small fixed incomes. Moreover, once they have been assessed, residents can lose all the value of permanent improvements should they have to move out soon after. The Regulations thus limit direct, lump-sum assessments of tenants, but generally allow a community owner/operator to recover the cost of improvements over time through rent increases, as long as such charge is permitted in residents' leases, or, for tenants at will, as long as such charge is disclosed in their occupancy agreement.<sup>48</sup>

1. Payment for capital improvements

a. Improvements totaling less than \$100 in the aggregate. You may be required to pay your share of any capital improvement that has a total cost of \$100 or less. Such relatively small costs may be divided among community households and billed as a lump sum charge. 940 C.M.R. 10.03(2)(l).

b. Improvements exceeding \$100 in the aggregate. For improvements that cost more than \$100, your occupancy agreement must disclose and describe when and how special charges or fees may be imposed for extraordinary work, services, or repairs. In addition, the total expenses for the improvements must be "amortized" – that is, spread over the useful life of the improvement – and shared equally among the households in your community.

**Example.** Consider, for example, a community of 100 lots, which must be connected to the town sewer system at a total cost of \$200,000. Assume that the useful life of a new sewer system is 20 years. The \$200,000 expense must be amortized at the rate of \$10,000 per year ( $\$200,000 \div 20 \text{ years} = \$10,000$  per year). This \$10,000 is the amount that the owner/operator may charge through to the 100 households in his community each year. Each household's share will be \$100 a year ( $\$10,000 \div 100 \text{ households} = \$100$ ), or \$8.33 per month ( $\$100 \div 12 \text{ months} = \$8.33$ ). Your community owner/operator thus could increase your rent \$8.33 per month for a period of 20 years. At the end of the 20-year period, however, this \$8.33 must be removed from your monthly rent.

2. Payment for repairs or upgrades necessary to meet minimum legal standards

The law presumes that you pay rent in exchange for a lot and common areas and utilities that meet the minimum standards required by law. Thus, your community owner/operator is expected to maintain sewer, water, gas or electrical systems "up to code." As explained above, the costs of maintaining utilities to meet code requirements generally may be passed through to tenants. As long as it is allowed for in the occupancy agreement, such a pass-through of costs applies to both individuals who are already tenants when the capital improvement begins and new tenants who, upon entering the community, receive notice of charges for ongoing capital improvements.

The owner/operator's right to pass through such costs, however, has certain limitations. He may not pass through such costs where the common area or utility is in violation of the applicable law. That is, if your utility system fails to meet an existing legal code or standard, the owner/operator must himself bear the costs of bringing the system up to code. However, when the owner/operator has to upgrade or make improvements because the legal standard has changed, he may pass on such costs to the tenants, in the manner described above in section II.F.1 above. 940 C.M.R. 10.03(2)(m).

## G. Retirement Communities

Many of the manufactured housing communities developed in recent years in the Commonwealth are retirement communities, with minimum age limitations on the residents. Qualifying retirement communities are exempted from the general prohibitions against housing discrimination on the basis of age or family status. In order to qualify for this exemption, a retirement community must meet the both the federal and state standards for such communities. 940 C.M.R. 10.01.

### 1. Massachusetts requirements

In order to be a qualifying retirement community in Massachusetts, a community must have been "constructed expressly for use as housing for persons fifty-five or over or sixty-two or over...." Thus, to qualify for the exemption, manufactured housing communities must have age restrictions of either 55 and over, or 62 and over. In addition, communities must satisfy the "constructed expressly for use" requirement. This requirement means that a general access community is not allowed freely to convert to a retirement community. Such conversion is permissible only if the owner/operator can demonstrate that he or she has engaged in construction expressly for the purpose of making the community a 55-and-over, or a 62-and-over retirement community.<sup>49</sup> Finally, the Massachusetts law expressly requires that retirement communities comply with the Federal Fair Housing Act. M.G.L. c. 151B, §§ 4(6) & (7).

### 2. Federal requirements

The Federal Fair Housing Act, 42 U.S.C. § 3601-3619, exempts "housing for older persons" from the general federal law against housing discrimination on the basis of familial status (*i.e.*, discrimination against families with children). The United States Department of Housing and Urban Development ("HUD") enforces, and has issued regulations interpreting the federal provisions on housing for older persons. See 24 C.F.R. 100.300 et seq. In order to qualify for the exemption, housing must be intended and operated for use as either a 55-and-over, or a 62-and-over community.

a. **55 -and- over communities.** In order to qualify as a 55-and-over community (24 C.F.R. 100.304), three requirements must be satisfied:

- At least 80% of the occupied units must be occupied by at least one person 55 years of age or older per unit;
- The community owner/operator must publish and adhere to policies and procedures that demonstrate an intent to provide housing for persons 55 or older; and
- The community must comply with HUD's rules for verification of occupancy through reliable surveys and affidavits.

b. **62-and-over communities.** All units occupied after September 13, 1988 must be occupied solely by persons 62 years of age or older.<sup>50</sup> In this type of community, under-

age household members cannot be permitted (although it could then qualify as a "55-and-over" community), unless they are employees performing substantial duties directly related to the management or maintenance of the community. 24 C.F.R. 100.303.

c. Questions about the federal requirements. Most questions usually concern the rules for establishing a 55-and-older community.

- **What does the 80/20% rule mean?** This rule for 55-and-over communities means that at least 80% of the occupied units must be occupied by at least one person 55 or older. Thus, spouses and other household members under age 55 can be permitted to live in the community without destroying its exempt status. Moreover, the remaining 20% of the units may be occupied by persons under 55 and still qualify for the exemption under federal law. Such units are often reserved for under-aged family members who inherit a home after a 55 or older resident dies. Moreover, at least as far as federal law is concerned, a community may be more restrictive than the 80/20% rule, if it so desires: *i.e.*, a community may require that 100% of the units be occupied by at least one person 55 or older, or that 80% of the units be occupied exclusively by persons age 55 and over. You should be sure to review municipal requirements and the community rules to determine how the 80/20% rule applies in your community.
- **What are examples of policies and procedures that demonstrate an intent to establish a 55-and-over manufactured housing community?** Manufactured housing communities should include the 55-and-over age restriction in their community rules, lease, occupancy agreements, and written disclosures to prospective tenants. They should also include the age restriction in their advertisements, other promotional literature, and sales presentations. The most important procedure demonstrating intent, of course, is the community's actual practices in enforcing its age restrictions.
- **How can I find out more about the Federal Fair Housing Act and HUD's rules for verification of occupancy?** You should contact HUD at Department of Housing and Urban Development, Fair Housing Enforcement Office, 451 7th Street, S.W., Room 5206, Washington, D.C. 1-800-669-9777.

## H. Selling Your Manufactured Home

Community owner/operators are often in the business of selling new and used homes on lots within a community, and sometimes may be in direct competition with homeowners attempting to sell their homes. In order to correct any inequality in bargaining position, the Act and the Regulations establish certain rights and protections for homeowners trying to sell their homes.

### 1. Right to sell home without interference

Your community owner/operator may not interfere with your right to sell your home in the community. The community owner/operator may, however, require a selling homeowner to

provide him notice of the sale at least 30 days before the sale is executed. 940 C.M.R. 10.07(1)(e). In addition, he may require the prospective buyer of your home to complete an application for tenancy in the community. The tenancy application process is discussed in section II. C.1. above.

In any case, as long as your prospective buyer meets the current, enforceable rules of the community and provides reasonable evidence of his financial ability to pay the rent, the community owner/operator must allow him and his household to reside in the community. M.G.L. c. 140, § 32M; 940 C.M.R. 10.07(1)(a) & (2). As a general rule, the community owner/operator may not reject new tenants for such reasons as the condition of the home or the lot (see section II.C.1.b(1) above), or the fact that the seller owes back rent (see section II.C.1.b(2) above), or the fact that the prospective buyer already owns other homes or leases other sites in the community. 940 C.M.R. 10.07(2).

a. **Right to sell home on lot.** Your community owner/operator also may not interfere with your right to sell your home on its lot in the community. A community owner/operator thus may not require that your home be removed from the community after it is sold. 940 C.M.R. 10.07(1)(a). If your community owner/operator wishes to upgrade your lot by placing a new home on it and selling it, he may bid on your home when it becomes available for sale.

b. **Right to choose broker.** Your community owner/operator may not require you to use a particular broker (including himself or his agents) for any sale of your home. You may sell your home directly, or use any broker of your choosing. 940 C.M.R. 10.07(3)(a) & (b).

(1) **Community owner/operator as broker.** You may, of course, voluntarily contract to have your community owner/operator or someone he designates act as your broker in the sale of your home. If you do, there is a cap on the broker's fee or commission that the owner/operator can charge: he may not charge more than 10% of the sale price of your home. In addition, the owner/operator may not charge this fee unless other conditions are met: there must be a separate written agreement, signed by you, and naming your community owner/operator or his agent to act as your broker; the community owner/operator must actually provide brokerage services; and the broker's fee must be reasonable in relation to the services provided. 940 C.M.R. 10.07(4).

c. **Steering prohibited.** Your community owner/operator may not require that any person who wishes to buy a home in the community first stop at the community management or sales office to inquire about the availability of homes. 940 C.M.R. 10.06(2). He also may not make any false, deceptive, or misleading statements to potential buyers in order to discourage them from purchasing your home.<sup>51</sup> 940 C.M.R. 10.07(1)(c).

d. **Community owner/operator may not require a home inspection.** Your community owner/operator is not entitled to inspect, or cause someone else to inspect, your home prior to your sale of the home. As with the sale of a single-family home, home inspections may only take place at the discretion of the buyer. Your community owner/operator, however, is entitled to inspect your lot prior to leasing it to the new tenant. See 940 C.M.R. 10.03(8).

e. **Right to use "For Sale" signs.** You have the right to place any commercially reasonable "For Sale" signs on your home and lot. In general, "For Sale" signs that are commercially reasonable for the sale of single family homes are also commercially reasonable for manufactured homes. Your community owner/operator may not require you to use a specific sign, such as one displaying the community logo, or one directing an interested party to the community sales or management office. 940 C.M.R. 10.07(5).

f. **Exit fees impermissible.** Your community owner/operator may not charge you an exit fee when you leave the community. 940 C.M.R. 10.03(2)(a).

## 2. Right of first refusal by community owner/operator.

A "right of first refusal" may come into play once you decide to sell your manufactured home and receive an offer from a third party. If the community owner/operator has a valid right of first refusal, he has the right to purchase the home on the terms of the third-party offer.

Because this right of first refusal can often be valuable, many community owner/operators seek to obtain a right of first refusal to purchase residents' homes. It is not permissible, however, for community owner/operators to grant themselves the right of first refusal in the community rules. Rather, in order to be valid, the right of first refusal must be freely granted by the resident to the community owner/operator, in a written agreement in which the resident receives something of value in return for the right of first refusal. Moreover, assuming that you have granted the community owner/operator a right of first refusal, the Regulations impose additional requirements. 940 C.M.R. 10.07(7).

a. **Bona fide offer to purchase must be matched by community owner/operator.** Assume you receive a bona fide offer to buy your home, and your community owner/operator has a valid right of first refusal that he wants to exercise. He can do so only if his offer matches both the amount and the terms of the original offer. 940 C.M.R. 10.07(7)(a) & (c).

b. **Fifteen-day limit on right of first refusal.** To exercise his right of first refusal, your community owner/operator must notify you, within 15 days of your receiving a bona fide offer, whether he will match it. 940 C.M.R. 10.07(7)(b).

c. **Substantially similar offers within one year.** Assume that your community owner/operator fails to exercise his right of first refusal, and the original offer also falls through. During the next year, if you receive any other offer that is substantially similar to the original offer, you are not required to give the community owner/operator another opportunity to exercise his right of first refusal. If the price of the later offer is much lower, however, you are required to give your community owner/operator the opportunity to exercise his right of first refusal. 940 C.M.R. 10.07(7)(d).

d. **Transfers to family members.** Your community owner/operator has no right of first refusal if you intend to sell or transfer your home to members of your family, including step-relatives and domestic partners. 940 C.M.R. 10.07(7)(e).

### 3. Tenant improvements made to lot

If your community owner/operator required you, or you chose, to make any repairs or improvements to your lot — such as adding plants, vines, edgings, shrubs, gravel, stone, or the like — those items become your property. When you sell your home, you may take such improvements with you, sell them to your community owner/operator, or sell them to the buyer of your home. If you decide to remove the improvements, you may be required to repair any damage that their removal causes to the lot. 940 C.M.R. 10.04(5)(c).

### I. Manufactured Housing Cooperatives

In recent years, many communities have been purchased by residents' associations, which own the land, collect the rent, and oversee community management. The law defines these communities, or "cooperatives," as communities where at least 51% of the individuals owning homes cooperatively own the land underlying the community. 940 C.M.R. 10.01. Participating individuals — often called "members" or "shareholders" — own shares in the cooperative and pay their lot rent to the cooperative. The mechanism for residents to purchase their community is described in section II. J below.

#### 1. The Attorney General's Regulations do not apply to cooperative members.

The Regulations do not apply to disputes between the cooperative and its shareholders. 940 C.M.R. 10.12. Cooperatives are subject to the Act itself and any other applicable laws, such as laws governing eviction and unfair or deceptive practices (M.G.L. c. 93A). In addition, the Regulations may still serve as a guide to cooperatives in governing themselves.

#### 2. Non-shareholding residents of a cooperative are protected by the Attorney General's Regulations.

Cooperatives often lease lots to non-shareholders, such as original residents who decided not to buy into the cooperative or new residents joining after the purchase of the community. Any resident who is not a shareholder is protected by the Act and other applicable laws, and also, by the Attorney General's Regulations.

### J. Purchase of a Manufactured Housing Community by Residents

If your community owner/operator decides to sell or lease your community, residents or their residents or homeowners' associations have a statutory "right of first refusal" to purchase or lease the community from the owner/operator. M.G.L. c. 140, § 32R. As described below, the Act sets out a process for triggering the residents' right of first refusal. It includes the community owner/operator's notice of his mere intent to sell or lease the community, a second round of notices about the details of specific offers received, and a mechanism for residents to purchase or lease the community on "substantially equivalent terms and conditions" as the offer that the community owner/operator otherwise intends to accept.

#### 1. Written notice of owner/operator's intent to sell or lease the community

If your community owner/operator intends to sell or lease all or part of your community, he

must notify all residents in the community. He must send the notice by certified mail within 14 days after he has advertised, listed, or otherwise publicized that the community is for sale.<sup>52</sup> No sale or lease can occur until at least 45 days after you and other residents have been notified. In the notice, he must notify residents of their right to purchase the community under the Act. M.G.L. c. 140, § 32R(a); 940 C.M.R. 10.09(1)(a).

**2. Written notice of the details of any offer which the owner/operator intends to accept that would result in a change of use or discontinuance of the community**

If your community owner/operator intends to accept an offer to sell or lease the community, and the change in ownership would result in a discontinuance or change of use of the property, then he must notify all residents in the community of this fact. The notice must be sent by certified mail, and include the terms, conditions, and total price<sup>53</sup> of the offer. M.G.L. c. 140, § 32R(b); 940 C.M.R. 10.09(1)(b). In addition, if the community owner/operator intends to provide financing for a proposed sale or lease that would result in a change of use or discontinuance, he must also provide such financing to a group of tenants attempting to purchase the community in the manner described below. M.G.L. c. 140, § 32R(c).

**3. Written notice of the details of any offer which the owner/operator intends to accept that would not result in a change of use or discontinuance of the community**

The notice requirements are different if the offer to sell or lease comes from a buyer who will continue the ongoing operation of the community. The community owner/operator is required to give notice to all residents only if 51 percent (51%) of the tenants have previously requested such notice in writing. One simple way to request such notice is to fill out a form that you should have already received, along with other documents setting out the terms and conditions of your occupancy in the community. See M.G.L. c. 140, § 32P (Appendix D), which sets out the language of the form. Although the form is convenient, it is not necessary to use it. To request notice, all you need do is request, in writing, that you would like to receive information about any proposed sale or lease of the community. Your request does not obligate you to participate in any such purchase or lease. To satisfy the 51% requirement, the written request can be either a single request from a residents/homeowners' association<sup>54</sup> representing at least 51% of the tenants, or individual requests from at least 51% of the tenants. You may make this request at any time — from the time you first enter the community up until you have received the initial notice of the mere intent to sell or lease described above. As long as the 51% requirement is satisfied, the community owner/operator must notify you, by certified mail, of the details of the offer received, and include the terms, conditions, and total price of the offer. M.G.L. c. 140, § 32R(b).

**4. Right of first refusal by tenants<sup>55</sup>**

An association representing at least 51% of the tenants or homeowners can exercise the statutory right of first refusal as long as it meets certain conditions, set out below. As long as these conditions are met, the community owner/operator may not unreasonably refuse to enter into, or unreasonably delay such purchase or lease of the community. 940 C.M.R. 10.09(1)(c).

**a. Reasonable evidence of approval to purchase.** The residents' or homeowners' association must submit reasonable evidence that residents of at least 51% of the occupied

homes in the community have approved the purchase of the community by the association. An example of such reasonable evidence would be a document signed by all interested residents. 940 C.M.R. 10.09(3)(a).

b. **Purchase and sale agreement or lease agreement.** After receiving written notice of a particular offer, the residents or homeowners' association has 45 days to submit a purchase and sale agreement or lease agreement to the community owner/operator. To be accepted, the proposed agreement must be on "substantially equivalent" terms and conditions as those in the original third-party offer. M.G.L. c. 140, § 32R(c).

c. **Binding commitment for necessary financing.** Once the proposed purchase and sale has been executed, the residents or homeowners' association has 90 days to get a binding commitment<sup>56</sup> for financing or guarantees. M.G.L. c. 140, § 32R(c).

d. **Timely closing.** The closing must occur within 180 days after the purchase and sale or lease agreement was originally signed. M.G.L. c. 140, § 32R(c).

#### 5. Assignment of tenants' right of first refusal

Sometimes a residents' or homeowners' association may not have the independent ability to purchase the community but wants it to continue as a manufactured housing community. In that event, the association may assign its right to purchase to the city or town in which it is located, or an appropriate housing authority or agency of the commonwealth. M.G.L. c. 140, § 32R(c). Such an assignment is appropriate only if the governmental entity is willing to purchase the community and continue using the land as a manufactured housing community. Once such a purchase is made, the governmental entity would then become the owner/operator of the community.

#### 6. Termination of homeowners' right of first refusal

The tenants' right to purchase or lease the community terminates if the residents' or homeowners' association fails to meet any of the deadlines described above. Each of the time periods, however, may be extended by agreement with the community owner/operator.

#### 7. Subsequent offers to purchase or lease

a. **Substantially different offers.** For each substantially different offer to purchase or lease the community which the owner/operator intends to accept, the residents' or homeowners' association shall have a separate right of first refusal. M.G.L. c 140, § 32R (d).<sup>57</sup>

b. **Substantially equivalent offer by same third party offeror.** If the community owner/operator receives a substantially equivalent offer from the same third party and the owner/operator intends to accept that offer, the tenants have a new right of first refusal, as long as at least 6 months have passed since the original offer. M.G.L. c. 140, § 32R(d).

c. **Substantially equivalent offer by different third party.** If the community owner/

operator receives a substantially equivalent offer from a different third-party offeror, and the owner/operator intends to accept that offer, the tenants will have a new right of first refusal, as long as at least three months have passed since the original offer. M.G.L. c. 140, § 32R(d).

#### 8. Community owner/operator's affidavit of compliance

If a residents' or homeowners' association is unsuccessful in attempting to purchase or lease the community, the community owner/operator must provide evidence that he satisfied the requirements of M.G.L. c. 140, § 32R. In particular, he must file an affidavit of compliance with state and local officials, including, the Attorney General, the Director of DHCD, the local board of health, and the official records of the county where the property is located. This filing must occur within seven days of the sale or lease of the community. M.G.L. c. 140, § 32R(e).

#### 9. Security deposit on lease of community

Where a residents' or homeowners' association is offering to lease the community, the community owner/operator may require a security deposit. This security deposit may not be more than one year's rent (or less, if less is required from the third-party offeror) and must be held in escrow during the term of the lease. M.G.L. c. 140, § 32R(c).

#### 10. Lease of community to third party

Where the community is being leased to a third party for a period of five years or less, the lease must specifically state that this third party shall not discontinue or change the use of the community during the term of the lease. M.G.L. c. 140, § 32R(e).

#### 11. Sale to third-party who subsequently issues notice of change of use or discontinuance

A community may be sold to an individual or company that originally intended to continue the manufactured housing community, but later decides to issue a notice of discontinuance. If such a notice is issued within one year after the community was purchased, tenants are entitled to at least 4 years' notice of the proposed change of use or discontinuance. M.G.L. c. 140, § 32R(f).

### K. Eviction from a Manufactured Housing Community

Eviction from a manufactured housing community is a very serious matter. It means that you and your family will have to not only move, but also either sell your home or move it elsewhere. The Legislature thus has provided special statutory protections for residents facing eviction from their community. See M.G.L. c. 140, § 32J.

#### 1. Termination of tenancy vs. eviction

Termination of a tenancy is not the same as eviction. "Termination of tenancy" is the technical name for the procedure for changing or ending your tenancy at the community. (For a discussion

of tenancies, see section II.E.1.b - d above.) As discussed above, sometimes a community owner/operator may "terminate" your tenancy although he does not intend to evict you, but merely to change the terms of your tenancy. See section II.E.e.1 above. As long as the resident agrees to pay the new rent, he will continue to live in the community without interruption.

On the other hand, the community owner/operator may send a Notice to Quit because he wants to "evict" a resident, or require him to leave the community permanently. Before the owner/operator can bring a court proceeding for eviction, however, he must again use the termination of tenancy process, which is described fully below. See section II.K.3 below.

Should you receive a Notice to Quit, do not be alarmed. First, determine whether the Notice discusses merely a rent increase or the threat of eviction. Even if it is the latter — a statement of his intent to evict you — you still may have options. You do not have to leave the community immediately; the community owner/operator must first complete the strict procedure for bringing and proving an eviction action against you in court before he can make you leave. In any case, upon receiving a Notice to Quit, contact an attorney, a local Legal Service Office, or your residents' or homeowners' association.

## 2. Grounds for terminating your tenancy for purposes of eviction

A community owner/operator can end a tenancy, for the purpose of evicting you, only for the following reasons:

- a. **Non-payment of rent.** If you fail to pay your rent, your tenancy may be terminated. In order to avoid disputes about how much rent is owed, keep good records of your rent payments and any reasons for withholding any portion of your rent (such as for necessary repairs or code violations). See M.G.L. c. 239, §8A (rent withholding statute) and 940 C.M.R. 3.17(g) & (h) (Attorney General's c. 93A regulations governing landlord-tenant disputes.)
- b. **A substantial violation of an enforceable community rule.** You may also have your tenancy terminated if you have committed a "substantial violation" of an enforceable community rule. The Regulations define "substantial violation" to mean a violation that endangers the health or safety of other residents, their guests, or the community owner/operator; that unreasonably interferes with other residents' use and quiet enjoyment of their homes, homesites, or the common areas or facilities; or that damages or poses a substantial risk of damage to the community owner/operator's property or equipment. 940 C.M.R. 10.08(2)(b).
- c. **A violation of a law or ordinance protecting health or safety.** Your tenancy may also be terminated for violation of a health or safety law or ordinance, but only if the correct process is followed. See 940 C.M.R. 10.08(3)(a). First, your community owner/operator does not have the authority to determine whether a particular health or safety law has been violated. That decision must be made by the government agency in charge of enforcing the law. Once the agency has notified you of the violation, you then have a "reasonable period" to comply. If you fail to comply after a reasonable period, then, and only then, may your community owner/operator terminate your tenancy. *Id.* Finally, you

may be evicted if someone in your household has been convicted of violating a criminal statute that protects the health or safety of other residents; however, you may not be evicted on this basis if that person no longer resides with you and does not move back in again. 940 C.M.R. 10.08(3)(b).

d. **A good faith discontinuance of part or all of your community.** If the community owner/operator has made a good faith decision to discontinue your manufactured housing community, he may terminate your tenancy. M.G.L. c.140, § 32J. However, he can do so only if he complies with the special provisions contained in the Act and Regulations. First, all residents are entitled to a minimum two-year notice period. Thus, at the earliest, a community can be closed, and your tenancy terminated, two years after the notice informing you of the discontinuance. M.G.L. c. 140, § 32L(8). Moreover, if the time remaining under your lease is more than two years, the community owner/operator must honor that lease. In addition, if you purchased your home from the community owner/operator, you have special protections: for five years from the date of sale, your tenancy may not be terminated on the grounds that the community is being discontinued. M.G.L. c. 140, § 32J. See section II.L.2. a below.

### 3. The procedure for terminating your tenancy

If your community owner/operator wants to evict you from the park, he must follow a strict procedure, which is set forth below.

a. **30-day Notice to Quit required.** At least thirty days before beginning any court proceedings, your community owner/operator must first terminate your tenancy by sending you a written Notice to Quit.<sup>58</sup> The notice must be delivered by certified or registered mail and state the reason(s) he is terminating your tenancy. If the community owner/operator claims that you violated a health or safety law or ordinance, or committed a substantial violation of a community rule, the notice must state precisely what law or rule you allegedly violated, when, where and how you violated it, and the names of any witnesses. 940 C.M.R. 10.08(1)(b). It must also state that in order to avoid eviction, you have fifteen days (from the date you receive the notice) to pay your overdue rent or cure the alleged violations. M.G.L. c. 140, § 32J.

b. **20-day cure period.** The Notice to Quit will state that you have fifteen days to pay your rent or cure any other violation; however, your community owner/operator may actually initiate court proceedings only if you have still failed to cure the alleged violation twenty days after you received the notice. M.G.L. c. 140, § 32J.

c. **Action brought on basis other than non-payment of rent.** If your community owner/operator is evicting you for something other than non-payment of rent, he must begin action against you within 30 days of your last alleged violation. He cannot "sit on his rights," but must act promptly. M.G.L. c. 140, § 32J.

d. **Exception for repeated substantial violation of rule.** There is an exception to the 30 day notice rule if you have already received one 30 day Notice to Quit for an alleged substantial violation of a rule and had an opportunity to cure the rule, and then violate

that same rule again within the next six months. Under those circumstances, your community owner/operator may bring an eviction action against you without giving you another Notice to Quit and opportunity to cure. M.G.L. c.140, § 32J.

e. “Certificate of eviction” required by local rent control board. Most manufactured housing rent control laws require that before your community owner/operator can evict you, he must obtain a “certificate of eviction” from the local rent control board. A certificate of eviction can be obtained only on the grounds listed in the Act, M.G.L. c.140, § 32J; 940 C.M.R. 10.08(1)(c). In general, the local board should give you written notice of any application and an opportunity to oppose the issuance of a certificate of eviction. If you live in a rent-controlled community, and there is an issue about board procedures, you should call your local board or other local officials for a copy of the local rent control laws. Even where the rent board does issue a certificate of eviction, you still have the right to appeal the board’s decision in Housing or District Court, within 30 days of the issuance of the certificate of eviction. See Nelson v. Boston Rent Equity Board, 403 Mass. 425, 530 N.E. 2d 351 (1988). Your landlord may begin an eviction case in court, however, before your appeal is decided.

#### 4. Summary process eviction

Once your tenancy has been properly terminated and the notice and cure periods have expired, a community owner/operator can file an eviction case against you in court under a procedure called “summary process.” This is the procedure used for the eviction of all residential tenants in the Commonwealth. M.G.L. c. 239. The community owner/operator has the burden of proving that the tenant committed the specific violation stated in the Notice to Quit. Like other residential tenants, you may have defenses, counterclaims, or legal remedies under summary process.

a. **Stopping an eviction by paying rent owed.** If you are being evicted for non-payment of rent, you may have the opportunity to revive your tenancy by paying all the past rent owed, even after the summary process case has been filed.

(1) **Tenants with leases.** If you want to revive your tenancy after you have received a summons and complaint, you must pay all the rent owed, plus interest, and your community owner/operator’s court filing costs, on or before the date your answer to the complaint is due in court.<sup>59</sup> M.G.L. c. 186, § 11. Make sure that you obtain a written, dated receipt for the amount that you paid and a written agreement, signed by both sides, stating that the case should be dismissed. On the date that your case is scheduled for trial, you should still go to court. Bring your receipt and the agreement, and make sure that your community owner/operator gives the agreement to the judge, to ensure that the case is dismissed.

(2) **Late subsidy or welfare checks.** If you have not paid your rent because you have not received an expected housing subsidy or welfare check, you should immediately ask the court to postpone your hearing date for at least seven days, so that the check can arrive. If you pay the community owner/operator the rent plus interest during this continuance period, the court must treat the tenancy as not having been terminated

and must dismiss the case. M.G.L. c. 186, §§ 11, 12.

(3) **Rent withholding.** If you have been withholding rent because of serious code violations on your lot or in common areas, you may be able to revive your tenancy after the trial. As part of the eviction trial, the court will likely evaluate the conditions and determine how much of the rent you actually owe. In order to revive your tenancy, you must pay the amount determined by the judge, within seven days of your being notified of the court's ruling. M.G.L. c. 239, § 8A.

b. **Transfer to Housing Court.** You may live in a city or town that falls within the jurisdiction of a state Housing Court.<sup>60</sup> If so, you have the right to have your case heard there, even if your community owner/operator has filed the case in District or Superior Court. The Housing Court specializes in housing matters, especially eviction cases, and the judges there are often familiar with manufactured housing issues. If you would like to transfer your case to Housing Court, call your local Housing Court to obtain a form called "Notice of Transfer." You should file this form in the court in which the case was originally filed, and send a copy to the Housing Court and your community owner/operator. Transfer will occur automatically. M.G.L. c. 185C, § 20. You can deliver this form up until the day before the original trial date. Unif. Summ. Proc. R. 4.

c. **Filing your Answer.** Your summons and complaint will tell you when you must file your "answer." An answer is a written document you use to tell the court your side of the story and should include any defenses or counterclaims you may have. You must file the original of your answer in court and give a copy to your community owner/operator by the answer date. If you do not file an answer in court by the answer date, a judge may "default" you and authorize your community owner/operator to evict you.<sup>61</sup>

d. **Defenses.** As a manufactured housing community tenant, you may have defenses to the eviction action. Here is a list of some (but not all) common defenses:

(1) **Cure.** If you have paid the overdue rent or corrected the alleged violation within 20 days of the date of your Notice to Quit, you cannot be evicted.

(2) **Acceptance of rent without reservation.** Community owner/operators often accept rent even after sending a resident a Notice to Quit. If he does so, and fails, in writing, to reserve his right to evict you, then he may have created a new tenancy at will. Under these circumstances, he would lose his right to evict you for this particular failure to pay rent.

(3) **Improper notice of termination.** The Notice to Quit may be defective if it fails to specify the details of how you violated a community rule or law, 940 C.M.R. 10.08(1)(b); fails to notify you of your right to cure; or was not delivered by certified or registered mail. If your notice is defective, the court should dismiss your case.

(4) **Rule violations not included in the termination notice.** Your community owner/operator cannot ask the judge to evict you based on rule violations that were not included in the original termination notice.

- (5) **Rule violation not “substantial.”** To serve as a basis for eviction, there must be a “substantial” violation of an enforceable community rule. See section II.K.2.b above.
- (6) **Failure to follow community discontinuance requirements.** If you are being evicted only because your community is being discontinued, you can defend against eviction if your community owner/operator did not follow the proper procedures for discontinuance described in the Act, M.G.L. c. 140, §§ 32L(7A) - (9). Such defenses may include: the community owner/operator’s failure to obtain a discontinuance permit, where required by a local governmental body; failure to properly notify tenants of the community closing; failure to honor the term of your lease, over and above the two-year notice period; and, with regard to those purchasing homes from the community owner/operator, failure to honor the residents’ statutory right to live in the home for five years from the date of purchase. M.G.L. c. 140, § 32J(4).
- (7) **No “good faith” closing.** If the community owner/operator wants to evict residents on the ground of community discontinuance, he must prove that the discontinuance is in “good faith,” that is, he has no impermissible ulterior motive. Evidence of such good faith would include a pre-existing plan or a business reason for closing the community. Moreover, the community owner/operator may have to rebut a presumption of no good faith, which arises under certain circumstances. See 940 C.M.R. 10.10(1) and section II.L.5 below.
- (8) **Violation of local rent control ordinance.** In rent-controlled communities requiring a certificate of eviction, your community owner/operator must have obtained the certificate before seeking eviction, and must file the certificate in court together with the summons and complaint. If he has not done so, the action against you should be dismissed. See 940 C.M.R. 10.08(1)(c).
- (9) **Death of tenant.** Where the tenant has died, the tenancy will continue in the tenant’s estate for one year from the date of death, or one year from the appointment of an executor or administrator, whichever comes first. M.G.L. c. 140, § 32J. Thus, if a retirement community tenant dies, remaining household members who are underage will have a year to sell the home and find alternative housing, and generally cannot be evicted during that time.
- (10) **Unsanitary or unsafe conditions.** You may have a defense to an eviction if community conditions violate the state sanitary code, and your community owner/operator knows about such conditions and fails to correct them. This defense is especially appropriate if you are being evicted for non-payment of rent after withholding rent because of the poor conditions. M.G.L. c. 239, § 8A.
- (11) **Retaliation.** You may also have a defense if your community owner/operator tries to evict you in retaliation for engaging in certain activities protected by law, such as: reporting violations of law to the appropriate governmental authorities; being a member of a residents’ or homeowners’ association or seeking to establish or amend rent control laws; or asserting any rights under the Act, the Regulations, or any other applicable landlord-tenant law. If the community owner/operator sends you a Notice

to Quit or brings an eviction action within six months after you did any of these protected activities, then the court must presume that your community owner/operator is retaliating. Your community owner/operator then would not be able to evict you unless he proves that the eviction is based on a legitimate reason and would have been brought regardless of your protected activities. M.G.L. c. 140, § 32N; 940 C.M.R. 10.08(4).

(12) **Discrimination.** If you are physically or mentally handicapped, your community owner/operator is required to make "reasonable accommodations" for you. 42 U.S.C. § 3604(f)(3)(b); M.G.L. c. 151B, § 4(7A). This requirement may help you defend against an eviction action if a reasonable accommodation would assist you in curing the violation upon which the eviction action is based. Another type of illegal discrimination occurs if your community owner/operator refuses to accept a welfare voucher or rent subsidy from you. M.G.L. c. 151B, § 4(10).

e. **Obtaining "discovery."** To help you prepare and prove your case, you have the right to obtain "discovery" — that is, information and documents from your community owner/operator.<sup>62</sup> If you file your discovery papers in court by the answer date, the court will postpone your hearing for two weeks. This will give your community owner/operator time to answer your questions and send you documents. If he does not respond within ten days of receiving your discovery, or gives incomplete answers, you have five days to file a "motion to compel" asking the court to order the community owner/operator to give you the requested information. If your community owner/operator does not comply with the court's order, the court can impose sanctions, including dismissing or postponing the case. Unif. Summ. Proc. R. 7.

f. **Mediation.** In Housing Court, while you are waiting for your case to be called, you may be asked whether you are interested in meeting with one of the court's mediators. A mediator will try to help you and your community owner/operator settle your dispute without a trial. If you agree to mediation, do not make any promises you cannot keep. Everything said in mediation is confidential, and if mediation cannot resolve your dispute, you are still entitled to a trial.

g. **Trial of your case.** Your community owner/operator is required to present his evidence first. You have the right to cross-examine anyone who testifies, including your community owner/operator. You will then have the opportunity to tell your side of the story to the judge, present witnesses, and provide documents. The judge will then issue a judgment — either immediately, in court, or by mail, after he has "taken the case under advisement."

h. **Right to appeal judgment.** If you lose in court and still think you have valid legal claims or defenses, you have ten days after the judgment to file an appeal. M.G.L. c. 239, § 5; Unif. Summ. Proc. R. 12. If your case was in the District Court, you have the right to a completely new trial before a judge or jury in the Superior or Housing court. M.G.L. c. 231, § 97; M.G.L. c. 239, § 5. If your case was originally held in the Housing or Superior Court, there is no second trial; your appeal is to the Appeals Court, which will review the original trial to see if any legal errors were made by the trial court. It is essential

to have the assistance of a lawyer when appealing your case to the Appeals Court.

i. **Execution of a judgment against you.** If your community owner/operator wins the case, he may obtain an "execution" from the court within ten days after judgment is entered against you. This execution must be used within three months of that date or it expires.<sup>63</sup> M.G.L. c. 235, § 23. To execute a judgment means to have a sheriff or constable deliver the execution to you and move you out, placing any of your remaining possessions in storage. M.G.L. c. 239, § 4. A constable must give you 48 hours written notice that you are going to be evicted, by either giving the notice to you directly or tacking it to your door. The notice must state the date and time he will move you out. You can only be moved out Monday through Friday between 9:00 and 5:00 p.m., and not on a legal holiday. M.G.L. c. 239, § 3. You may be able to get the constable to agree to give you more time to move out. Since it can be costly for your community owner/operator to pay to have your possessions removed and stored, you may be able to work out an agreement which gives you more time to move out voluntarily.

j. **Acceptance of rent after eviction.** If you were evicted for non-payment of rent and you pay all of the rent due before your community owner/operator executes the judgment, your community owner/operator will not be able to move you out, and must return the execution to the court. M.G.L. c. 239, § 3.

k. **Obtaining a stay of execution.** If you lose your eviction case and need more time to move, you can ask the judge to grant you a stay of execution, which prevents the community owner/operator from evicting you until the stay expires. You cannot obtain a stay if you are being evicted for non-payment of rent or for some other reason which was your fault. A judge has the power to stay your eviction for up to 6 months; however, if you or someone living with you is disabled or over the age of 60, a court can grant you a stay for up to 12 months. M.G.L. c. 239, § 9.

#### 4. Post-eviction rights

The law provides you with certain rights and responsibilities in order to give you an opportunity to sell your home after you have been evicted from a manufactured housing community.

a. **120-day period to sell your home in place.** For 120 days after your eviction, you have the right to try to sell your home in place, and your community owner/operator may not move your home, or interfere with utility hookups. 940 C.M.R. 10.08(5)(a). No one, however, is permitted to occupy the home during this time period. In order to benefit from this provision, you must make good faith efforts to sell your home. M.G.L. c. 140, § 32J.

b. **Liability for rent and maintenance during 120-day period.** During the 120-day period, you will continue to be liable for the lot rent and for the maintenance of the lot. If you cannot afford to pay for these, your community owner/operator may place a lien on your home for the amount owed, plus any other amounts due to him that the court has set forth in your eviction order. M.G.L. c. 140, § 32J. To make the lien official and "perfect"

either you or the community owner/operator should prepare a uniform commercial code ("UCC") statement and file it with the Town Clerk and Secretary of State. As the owner of the home, you must sign the UCC statement. If you fail to do so within ten days after receiving it from the owner/operator, you will not be entitled to the benefits of the 120-day period for as long as the statement goes unsigned. Alternatively, you may prepare and file your own UCC statement establishing the lien on your home. M.G.L. c. 140, § 32J.

c. **Freedom from interference in selling your home.** During the 120-day time period, you are entitled to place any commercially reasonable "For Sale" signs on your home or lot, and may show the home to prospective purchasers or their agents, such as home inspectors, without interference from your community owner/operator. 940 C.M.R. 10.08(5)(b).

d. **Purchase of home by community owner/operator.** Once you have been evicted, if your community owner/operator or any affiliate purchases your home at a price substantially below the fair market value of your home, such sale will create a rebuttable presumption that the transaction was unfair or deceptive, and thus a violation of the Massachusetts Consumer Protection Act, c. 93A. 940 C.M.R. 10.08(5)(c).

#### L. Discontinuance or Change of Use of a Manufactured Housing Community

Unfortunately, as you do not own the land beneath your home, the day may come when the owner/operator of your community decides to discontinue the community and use the property for some other purpose, such as a hotel or a shopping mall. This can present a crisis for residents of a manufactured housing community, since their homes are not truly "mobile." Even if they were mobile, it is often impossible to find a nearby community with open spaces for displaced homes. The discontinuance of a community thus may expose residents to the hardship of losing their homes and all of their investment in them. Fortunately, the Legislature has established important protections for residents facing such risks. M.G.L. c. 140, §§ 32L(7A) - (9).

##### **1. Discontinuance permit requirements**

Some cities and towns with manufactured housing rent control require a permit if community owner/operators want to discontinue or change the use of a manufactured housing community.<sup>64</sup> In these cities and towns, your community owner/operator cannot issue a notice that the community is discontinuing without first following the local permitting process. M.G.L. c. 140, § 32L(8).<sup>65</sup> Once the community owner/operator applies for a discontinuance permit and is going to appear before the local authorities, he must give residents at least 15 days written notice of his appearance, delivered by certified or registered mail. *Id.* The procedures and standards for the permitting process are set forth in the local rent control laws. Questions about this process should be directed to your local rent control board, city council or board of selectmen.

##### **2. Notice of discontinuance or change of use requirements**

In addition to obtaining any required discontinuance permit, the community owner/operator must give you a legally proper notice of his intention to discontinue or change the use of your community.

a. **Minimum two-year notice period for all residents.** Each resident is entitled to at least two years' written notice before the discontinuance or change of use will occur. This notice must be delivered by certified or registered mail. M.G.L. c.140, § 32L(8). If you have a lease period that extends beyond this two-year period, you cannot be required to move until that lease period has expired. If your community owner/operator sold you your home in the community, you are entitled to stay in the community until five years has elapsed from the date that you bought your home. M.G.L. c.140, § 32J.

b. **Specific statement of reasons.** In the written notice he has delivered to you, your community owner/operator must clearly disclose and describe the nature of the change of use or discontinuance he has planned, and the reasons for his decision. M.G.L. c.140, § 32L(8).

### 3. Requirements during the two-year notice period

Your community owner/operator must comply with certain legal requirements during the period after he has issued a notice of change of use or discontinuance.

a. **Annual survey.** For each year of the two-year notice period, your community owner/operator must survey all manufactured housing communities within a 100-mile radius to determine if any has or will have vacant lots available during the notice period. All the information that he receives about available sites in response to the survey must be prominently posted at the community. The final survey must be completed and posted at least 120 days before the end of the notice period. M.G.L. c. 140, § 32L(7A).

b. **Written notice to new residents.** Your community owner/operator must give written notice of any planned change of use or discontinuance to all new residents before they enter the community or agree to an occupancy agreement. M.G.L. c. 140, § 32L(9). If the validity of the notice is being challenged legally, he must also inform new residents of such challenges and any related court rulings concerning the validity of the notice. 940 C.M.R. 10.07(1)(c). If your community owner/operator sells a home in the community, he must inform the buyer if he intends to issue or actually does issue a notice of discontinuance. 940 C.M.R. 10.02(9).

c. **Rental agreement.** Each resident who receives a discontinuance notice must also be offered a "rental agreement" that begins on the day the notice is issued. This agreement cannot change your existing tenancy arrangement, except for the amount of rent under certain circumstances.<sup>66</sup> If you live in a rent-controlled community, rents are governed by the applicable rent control laws. If you do not live in a rent-controlled community, then the community owner/operator may increase your rent only if a year has passed since your last rent increase. In addition, the statute determines how the rent increase must be calculated: it cannot be more than last year's increase in the Consumer Price Index for Urban Consumers ("CPI"), plus your portion of any documented increase in real estate taxes or other municipal fees or charges. In any case, the rent cannot be increased more than 10% over last year's rent. M.G.L. c. 140, § 32L(7A).

d. **No restrictions on subleasing permitted.** Once a discontinuance notice has been

issued, residents may lease their homes and sublease their homesites to others, without restriction. 940 C.M.R. 10.03(7).

#### 4. Monetary compensation to homeowners

If a community owner/operator decides to discontinue or change the use of the community, he must compensate each individual who owns a home in the community.<sup>67</sup> Tenants can choose one of two ways to be compensated.

a. **Payment of actual relocation costs.** If you decide to move your home to a new community, your community owner/operator must pay you the actual costs of relocation. In particular, he must pay for the costs of disconnecting your home, moving it within a 100-mile radius, and reconnecting it so that it is in substantially the same condition it was in before it was moved. He must also pay the reasonable costs of suitable lodging for your household until the move and reinstallation of your home is completed. M.G.L. c.140, § 32L(7A). You are entitled to receive these payments by the date you leave the community. In addition, after the home is physically relocated to another site, the payments must be adjusted to reflect the total costs of the move. To receive such adjusted payments, you must send the community owner/operator reasonable evidence of the total costs of the move. Once you have done so, you are entitled to receive the adjusted payments within 14 days after the community owner/operator receives such evidence. 940 C.M.R. 10.10(3)(c).

b. **Purchase of your home at its appraised value.** If you cannot or do not want to move your home, your community owner/operator must buy your home from you at its appraised value.<sup>68</sup> You and your community owner/operator should agree on an independent appraiser; but if you cannot agree, the Department of Housing and Community Development will appoint one within 30 days, upon request. The cost of the appraisal must be shared equally between the tenant and the community owner/operator. The community owner/operator must pay you the appraised value no later than the date you leave the community. M.G.L. c.140, § 32L(7A). At the same time, you must give the community owner/operator good title to the home, free and clear of all liens or mortgages. 940 C.M.R. 10.10(3)(b).

#### 5. A discontinuance or change of use must be undertaken in "good faith."

The Act requires that when a community owner/operator issues a notice of discontinuance, he must do so in "good faith." M.G.L. c.140 §§ 32J, 32L(8). In a court proceeding, the burden of proving good faith is on the community owner/operator. M.G.L. c.140 § 32L(8). Under certain circumstances, the law creates a "rebuttable presumption" that a change of use or discontinuance is not in good faith, and your community owner/operator must prove otherwise. Such a rebuttable presumption is created where the discontinuance notice is issued:

- within 6 months after any resident or group of residents complains to a government agency about a violation of the Act or any applicable building or health code, M.G.L. c.140 § 32N; 940 C.M.R. 10.10(1)(a);

- within 6 months after residents try or actually obtain rent control in their community, 940 C.M.R. 10.10(1)(b);
- within 6 months after the local rent board denies the community owner/operator a rent increase, 940 C.M.R. 10.10(1)(c);
- if credible evidence is produced that the discontinuance notice contains false information about the community owner/operator's reasons for issuing it, 940 C.M.R. 10.10(1)(d);
- if your community owner/operator fails to get a legally required permit before issuing the notice, 940 C.M.R. 10.10(1)(e);
- if the notice you received either contains no information about a planned alternative use for the land, or if current zoning does not allow for the planned use, 940 C.M.R. 10.10(1)(f);
- if your community owner/operator fails to conduct and distribute the results of the required annual survey of available homesites within a 100-mile radius, 940 C.M.R. 10.10(1)(g).

## III. RESOLVING DISPUTES AND ENFORCING YOUR LEGAL RIGHTS

Whenever you have a dispute with your community owner/operator, you should first attempt to bring your concerns to his attention. Open communication between community residents and owner/operators can enhance the quality of everyone's life in the community. One way to communicate your concerns is through your residents' or homeowners' association. It can serve as not only a forum for discussing community concerns but also as a vehicle for communicating with your owner/operator. In fact, some residents' or homeowners' associations schedule regular meetings with their community owner/operator so that he can be kept informed of the residents' concerns.

In addition to your community residents' association, there is also a statewide association of manufactured housing residents known as the Mobilehome Federation of Massachusetts (the "MFM"). The MFM represents the concerns and issues of manufactured housing residents throughout the state and stays up to date on changes in the laws affecting residents. If you are unable to resolve issues with your owner/operator, need more information about the laws applicable to your community, or would simply like to learn more about the organization, you should contact the MFM. A list of the current officers of the Federation is attached as Appendix F.

Community owner/operators have similarly formed a statewide organization known as the Massachusetts Manufactured Housing Association (the "MMHA"), which addresses owner/operators' concerns about issues affecting manufactured housing communities. Owner/operators who would like to learn more about owning and operating a community or would simply like to learn

more about the organization should contact the MMHA. For contact information see Appendix G.

If these approaches fail to assist you in resolving disputes with your community owner/operator, it may be necessary to get help in enforcing your rights under the law. An outline of governmental and private resources is set forth below.

#### A. Governmental Enforcement

If you or other residents in your community believe that your community owner/operator is violating certain laws that protect the public welfare, you may be able to obtain governmental enforcement of those laws by notifying the appropriate authorities.

##### 1. The United States Department of Housing and Urban Development.

The United States Department of Housing and Urban Development ("HUD") oversees application of the standards for the construction of manufactured homes, the National Manufactured Home Construction and Safety Standards. In addition, HUD enforces the Federal Fair Housing Act, which prohibits discrimination on the basis of race, color, religion, sex, national origin, handicap, and family status. As discussed above, HUD also enforces the rules for establishing 55-and-over, and 62-and-over retirement communities. See II.G.1-2. The local HUD office may be contacted at: United States Department of Housing and Urban Development, O'Neill Federal Building, 10 Causeway Street, Boston, MA 02222-1092. For questions about 55-and-over, and 62-and-over retirement communities, contact Department of Housing and Urban Development, Fair Housing Enforcement Office, 451 7th Street, S.W., Room 5206, Washington, D.C. 20410. 1-800-669-9777.

##### 2. Local Board of Health and the Department of Public Health

Your local board of health is responsible for issuing an annual license to your community owner/operator. The board must make sure that the owner/operator is complying with the requirements for his license, as set forth in M.G.L. c. 140, § 32B. In particular, every year, along with its license application, the community owner/operator must submit a copy of the enforceable rules of the community and a written certification that they have been submitted to the Attorney General for approval as required under the Act. Id.; 940 C.M.R. 10.11(1) & (2). The board also enforces the provisions of the state sanitary code (105 C.M.R. 400.000 et seq. and 410.000 et seq.)<sup>69</sup>, and local health ordinances. For violations of applicable the Manufactured Housing Act, the board of health can issue a violation notice to your community owner/operator, levy daily fines of up to \$100 a day for failure to comply with applicable laws, suspend or revoke his license, and take him to court to compel him to comply with the law. M.G.L. c. 140, §§ 32B, 32C, 32E; 940 C.M.R. 10.11(3).

In general, if there is a health or safety problem in the community, first notify your owner/operator. If he then fails to respond and correct the condition within a reasonable period of time, you may call the board of health and ask them to make an inspection. Uncorrected problems with your water or sewer or other unsanitary conditions in particular should be reported to the board. If you experience difficulty in getting your local board of health to act, you may also call

the state Department of Public Health and request their assistance.

### 3. Department of Environmental Protection

Along with your local board of health, the state Department of Environmental Protection has the authority to inspect a manufactured housing community to determine that the sources of water supply and the sewage disposition system are sanitary. If you are experiencing water quality or sewage disposal problems, the Department of Environmental Protection can work with your local board of health to ensure that these problems are repaired by your community owner/operator. See M.G.L. c. 140, § 32B.

### 4. Local consumer programs ("LCPs")

There are local consumer programs throughout the state that are funded by the Attorney General's Office to respond to local consumer complaints. These offices are often able to resolve disputes through discussions with your community owner/operator or through mediation. For the LCP nearest you, see Appendix H.

### 5. Attorney General's Consumer Protection and Antitrust Division

The Attorney General's Consumer Protection and Antitrust Division enforces both the Manufactured Housing Act and the Consumer Protection Act, M.G.L. c. 93A. If you have a complaint that cannot be resolved by your local board of health, local consumer program or other government agency, you can call the Attorney General's Consumer Hotline, (617) 727-8400. Consumer information specialists will respond to your inquiries, refer you to appropriate governmental or private agencies or services, and send you informational brochures. Mediators will attempt to resolve any disputes with your community owner/operator. Moreover, where a community owner/operator's violations of the law substantially affect the public interest, the Division may use its enforcement powers to take your community owner/operator to court to compel him to comply with the law.

### 6. Department of Housing and Community Development

The Housing Division develops and coordinates the state's overall housing policies which promote housing availability and affordability both in the public and private market, manufactured housing is an example of such housing. Like the Attorney General's Office, the Secretary of the Department of Housing and Community Development ("DHCD") has the authority to review all new and amended community rules (see II.C.5.f. above), and is a non-voting member of the Manufactured Housing Commission. See III.A.7. Questions should be addressed to Department of Housing and Community Development, One Congress Street, 10th Floor, Boston, MA 02114.

### 7. Manufactured Housing Commission

The 1993 amendments to the Manufactured Housing Act created a five-member volunteer board known as the Manufactured Housing Commission, for the purpose of identifying and addressing the concerns of community owners and residents, particularly with regard to zoning and local taxation issues.<sup>70</sup> The Commission may also receive complaints from owners and resi-

dents and make recommendations for their resolution. Although required to include only one community owner and one resident, the Commission generally has consisted of two owners, two residents, and a member of the Legislature. A representative of the Attorney General's Office and DCHD also sit as non-voting members of the Commission. The Commission travels throughout the state, meeting on the third Friday of every month, from 10:30 a.m. to 12:30 p.m. If you have a complaint that you would like the Commission to consider, you should contact the Department of Housing and Community Development.

#### 8. Massachusetts Commission Against Discrimination

The Massachusetts Commission Against Discrimination is the civil rights enforcement agency of the Commonwealth. The Commission has the authority to investigate complaints of illegal discrimination in housing on the basis of disability, race, color, religious creed, age (from 18), national origin, sex, sexual orientation, children, ancestry, marital status, military and veterans status, public assistance reciprocity, blindness or hearing impairment. Questions should be addressed to: Massachusetts Commission Against Discrimination, One Ashburton Place, 6th Floor, Boston, MA 02108. (617) 727-3990.

#### 9. Local rent control board

In rent control communities, disputes over rents should be directed to your local rent control board. In addition, unresolved problems with community repairs should be directed to your local rent control board. Most rent control boards have the authority to require your community owner/operator to make necessary repairs in order to obtain rent increases, or may lower rents if needed repairs are not made. Questions about evictions and community discontinuance should also be directed to your local rent control board.

### B. Private Enforcement

If there is no other way to resolve your problem, you may decide to sue your community owner/operator, or to take other "self help" measures. Going to court may offer remedies not otherwise available: you may be able to obtain either an injunction ordering your community owner/operator to correct a problem or stop breaking the law, or money damages for harm you have suffered.

#### 1. Consumer Protection Act, M.G.L. c. 93A

As consumers of housing, residents are protected by the Massachusetts Consumer Protection Act. Under c. 93A, it is illegal for your community owner/operator to use unfair or deceptive acts against you. In addition, a violation of either the Manufactured Housing Act or the Attorney General's Regulations is also a violation of the Consumer Protection Act. M.G.L. c. 140, § 32L(7). You may be able to recover your actual monetary damages, or even double or triple that amount if you can show that your community owner/operator acted intentionally.

- a. **Demand letter required.** In order to recover damages under the Consumer Protection Act, you must first send your community owner/operator a written demand letter. The demand letter should describe the community owner/operator's deceptive act, how it

is injuring you, and what you want done. If your community owner/operator does not respond to your letter in writing within 30 days, or if he does respond, but you can not settle the case, then you can sue him. If the community owner/operator's failure to give you a reasonable offer of settlement was willful or in bad faith, you may collect as much as double or triple damages, plus reasonable attorney's fees and costs. M.G.L. c. 93A, § 9. You must sue your community owner/operator within four years of his unfair or deceptive act. M.G.L. c. 260, § 5A.

## 2. State Sanitary Code

Violations of the State Sanitary Code can create a basis for private legal actions. For example, bad conditions can constitute a breach of the "warranty of habitability," a violation of the Consumer Protection Act, a basis for a negligence lawsuit, or the foundation for a criminal complaint.<sup>71</sup> Short of going to court to vindicate your rights, there are two intermediate options open to you – the "repair and deduct" and "rent withholding" laws.

a. The "repair and deduct" law, M.G.L. c. 111, § 127L. The repair and deduct law is designed for those situations which require immediate attention, where the resident cannot tolerate a defective condition on the premises for very long because it affects one's ability to perform essential functions, e.g., washing, using the bathroom. Four conditions must be met before a resident can invoke the repair and deduct law:

- there are violations of the state sanitary code or any other applicable laws (e.g., the Attorney General's Regulations) which create unhealthy or unsafe living conditions;
- these conditions are certified to exist by the local board of health, a court, or some other appropriate agency;
- the community owner/operator or his agent is notified in writing of the existence of the violations; and
- he has failed to begin all necessary repairs or provided for them to begin within five days after such notice and substantially complete all necessary repairs within 14 days after such notice.

M.G.L. c. 111, § 127L. If these requirements are met, a resident may deduct from his or her rent an amount necessary to pay for needed repairs, not to exceed four months' rent. This amount is determined collectively if action is taken by a group of residents.

b. The "rent withholding" law, M.G.L. c. 239, § 8A. The rent withholding law is designed to give residents a self-help remedy that essentially allows them to pay only the fair value of what they are renting. For example, assume rent is \$100 per month, \$20 of which is earmarked for maintenance of the community grounds, and the grounds are littered with refuse and overrun by vermin. If the community owner/operator is unwilling or unable to fix the problem within a reasonable period of time, the residents may want to consider withholding that portion of their rent which reduces their monthly payment to an

amount equal to the fair value of the premises, here presumably by \$20. Rent can be withheld if:

- the community owner/operator, his agents or employees knew of the defective condition before the resident began withholding;
- the resident did not cause the defective conditions; and
- the defective conditions can be remedied without the resident having to temporarily move out.

M.G.L. c. 239, § 8A. The law requires the three conditions set out above. The fourth is required by common sense — withhold only that portion of your rent that reduces your monthly payment to an amount equal to the fair value of the property.

Although you are perfectly within your rights if you decide to withhold your rent because of defective conditions, the community owner/operator still may attempt to evict you. However, as long as you meet the requirements described above, you cannot be evicted for withholding of rent. M.G.L. c.239, § 8A. The law provides that even if a resident withholds more than what the court deems equal to “fair value” he still cannot be evicted if this excess amount, plus interest and the owner/operator’s costs of suit, is paid to the court within one week of the resident being notified of the excess withholding by the court.

In any summary process suit begun because of a rent withholding action, a resident can raise as a defense the community owner/operator’s violation of the state sanitary code, breach of rental agreement, breach of warranty, or any other law protecting the residents occupancy rights. Once this issue is raised, the court will determine what the “fair value” of the leased premises actually is, as opposed to the amount the resident was being charged for it. The court may then order the resident to pay the clerk the “fair value” of the premises and use those funds for repair of the defective conditions.

c. Practical advice about rent withholding.

- Notify the community owner/operator of the defective conditions in writing prior to commencing rent withholding. This gives you proof of notice and gives him an awareness of how serious the problem is, as well as a chance to correct it at an early stage.
- Fairly estimate how much the premises are worth and withhold only that portion of your rent that reduces your monthly payment to the estimated fair value.
- Notify the community owner/operator in writing of your intent to commence rent withholding and note the amount withheld with language such as “\$17.00 rent withheld pursuant to M.G.L. c. 239, § 8A” on the back of every rent check.
- Deposit the withheld monies in a separate interest-bearing bank account estab-

lished solely for this purpose. When the court makes its determination of "fair value" you will have the money necessary to pay the court immediately accessible.

- If eviction proceedings are initiated against you, consult a lawyer.

### 3. Manufactured Housing Act

You can challenge violations of the Manufactured Housing Act through the Consumer Protection Act. To bring such an action, you should follow the instructions above for bringing a c. 93A action. See section III. B.1. above.

## IV. CONCLUSION

The purpose of this Guide is to provide consumers with the basic information necessary to understand the legal principles and issues faced every day in manufactured housing communities around the Commonwealth. The information set forth above thus does not have the status of law, does not constitute an official legal opinion of the Attorney General, and is not intended as a substitute for the personalized legal advice that is often necessary to address individual needs. For further information, please contact the governmental and private resources listed in section III.B above, or consult a legal aid or private attorney.

Armed with this basic knowledge of manufactured housing community law, both residents and owner/operators alike have the tools for understanding how to live and work together to build a better community.



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**ENDNOTES**

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- <sup>1</sup> For an explanation of legal citations used in the Guide, see Appendix A.
- <sup>2</sup> The Act defines a "manufactured housing community" as "any lot or tract of land upon which three or more manufactured homes occupied for dwelling purposes are located, including any buildings, structures, fixtures, and equipment used in connection with manufactured homes." M.G.L. c. 140, § 32F. See Danusis v. Longo, 48 Mass. App.1 Ct. 254 (1999) (interpreting § 32F)
- <sup>3</sup> The Manufactured Housing Act defines a "manufactured home" as a structure, "built in conformance to the National Manufactured Home Construction and Safety standards which is transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein." M.G.L. c. 140, § 32Q.
- <sup>4</sup> Greenfield Country Estates Tenants Ass'n, Inc. v. Deep, 423 Mass. 81, 83 (1996).
- <sup>5</sup> E.g., Commonwealth v. Gustafsson, 370 Mass. 181, 184 (1976).
- <sup>6</sup> As the United States Supreme Court has stated, "The term 'mobile home' is somewhat misleading. Mobile homes are largely immobile as a practical matter, because the cost of moving one is often a significant fraction of the value of the mobile home itself. They are generally placed permanently in parks; once in place, only about one in every hundred mobile home is ever moved." Yee v. Escondido, 503 U.S. 519, 523 (1992).
- <sup>7</sup> Gustafsson, 370 Mass. at 190.
- <sup>8</sup> Id. at 191.
- <sup>9</sup> Greenfield, 423 Mass. at 86 (citation omitted).
- <sup>10</sup> Gustafsson 370 Mass. at 189.
- <sup>11</sup> Commonwealth v. DeCotis, 366 Mass. 234, 243 & n. 7 (1974).
- <sup>12</sup> Greenfield, 423 Mass. at 83.
- <sup>13</sup> DeCotis, 366 Mass. at 243 n. 7.
- <sup>14</sup> E.g., Greenfield, 423 Mass. at 86 (stating with regard to § 32R of the Act, "It is difficult to imagine a more appropriate and close-fitting method to further the legitimate interest of the Commonwealth.")
- <sup>15</sup> See St. 1993, c. 145 §§ 1 et seq.
- <sup>16</sup> St. 1993, c. 145 §§ 14, 16.
- <sup>17</sup> See Appendix B, letter from Governor William F. Weld to the Honorable Senate and House of Representatives, dated August 13, 1993. When the Act was amended in 1993, there were thirteen manufactured housing communities that had pending notices of discontinuance. Most, if not all, of the threatened closings occurred shortly after the local imposition (or threat) of rent control for manufactured housing communities.
- <sup>18</sup> Appendix B.
- <sup>19</sup> Formerly, the Director was known as the Secretary of the Executive Office for Communities and

Development.

- <sup>20</sup> M.G.L. c. 140, § 32L(5); 940 C.M.R. 10.04(1)(a)(2).
- <sup>21</sup> M.G.L. c. 140, § 32L(7).
- <sup>22</sup> The Attorney General's Office gratefully acknowledges that over an approximately seven-year period, the law firm of Hill & Barlow devoted considerable pro bono time to assisting the Office of the Attorney General with the many difficult issues relating to manufactured housing.
- <sup>23</sup> M.G.L. c. 140, § 32L(1).
- <sup>24</sup> The Regulations, however, do not apply to disputes among shareholders of a cooperatively owned community. See section II.I.1 below.
- <sup>25</sup> For a discussion of the Manufactured Housing Commission, see section III.A.7.
- <sup>26</sup> This Guide uses the term "owner/operator" to refer to the owner(s), the operator(s) and/or the manager of the community.
- <sup>27</sup> The Registry of Motor Vehicles does not recognize manufactured homes as titleable vehicles, although homes must be registered if put on the road.
- <sup>28</sup> An exception to this general rule was found where a manufactured home was permanently affixed to a poured concrete foundation, with a full cellar. Ellis v. Board of Assessors of Acushnet, 358 Mass. 473 (1970).
- <sup>29</sup> All license fees must be deposited with the local tax collector by the tenth day of the month after they are collected from tenants. Failure to comply with this requirement may subject the owner/operator to fines and revocation of the community's license. M.G.L. c. 140, § 32G.
- <sup>30</sup> For list of local consumer programs, see Appendix H.
- <sup>31</sup> The "tenant" is the person who has the oral or written occupancy agreement allowing the person's household to use and occupy a manufactured home site in the community. 940 C.M.R. 10.01. A "resident" of the community may be the tenant, a subtenant, or any other individual who normally resides in the home in the manufactured housing community. Id. The "home-owner" is the individual who actually owns the manufactured home.
- <sup>32</sup> One exception to the broad rule forbidding housing discrimination is that a qualifying retirement community may impose a residency restriction based on a minimum age (either 55 or 62, depending upon the type of retirement community); any other so-called "adult community" is not lawful.
- <sup>33</sup> Although not expressly called "occupancy agreements," these written disclosures may constitute a "written agreement... for use and occupancy of a manufactured home site, common areas, facilities, and other appurtenant rights," within the meaning of 940 C.M.R. 10.01. Owner/operators should make sure that they disclose all fees and charges in these written disclosures. Such disclosure will likely satisfy the regulatory requirement that fees and charges are impermissible unless included in a occupancy agreement. See, e.g., 940 C.M.R. 10.03(2)(k).
- <sup>34</sup> In order to protect your investment in your new home, as well as to guard against any liability to others, it is advisable to carry homeowner's insurance. If you have a mortgage on your home, the insurance required by your bank or mortgage company ordinarily will be sufficient.
- <sup>35</sup> The community owner/operator may also offer a tenant a shorter term or longer term, up to life, as long as he also offers the tenant the option of a five year term.
- <sup>36</sup> Fair market rental rates are "the rental rates that would be charged in the market between a willing owner/operator of a manufactured housing community and a willing prospective tenant

- seeking initial residency in the community, each acting freely and with out compulsion or collusion, of the manufactured home site in question." 940 C.M.R. 10.01. The rate is not necessarily a single fixed rate for the entire five year period, but might, for example, allow for an adjustment based on increased real estate taxes assessed on the community's land. M.G.L. c. 186, § 15C.
- <sup>37</sup> A sublease typically is meant to be a temporary arrangement where a subtenant returns the lot to the original tenant before the tenancy ends, while an assignment is where a tenant makes an agreement to rent the lot to someone and does not plan to return.
- <sup>38</sup> The written receipt must include very specific information, including: the amount of money received; the date the money was received; the intended use of the money; the name of the person receiving the money; the name of the community owner/operator (if different than person receiving the money); a statement that you are entitled to the interest on the deposit; the address and lot number of the rented premises; the location and name of the bank where your money is deposited; the account number of the fund in which your money is deposited; and a statement that you should give the community owner/operator a forwarding address so he or she can send you interest when you move. M.G.L. c. 186, § 15B.
- <sup>39</sup> A "reasonable insurance requirement" means an amount and type of insurance coverage that is reasonably related to the nature, scale and risk of potential loss, and does not exceed the prevailing average amount or type of coverage that is customarily required of suppliers of the particular good or services in the area. 940 C.M.R. 10.01.
- <sup>40</sup> Some community owner/operators try to avoid these costs by claiming that the residents have purchased their above-ground oil tanks. This argument often fails because purchasing the tank was an impermissible condition of entry into the community rather than arms-length transaction. You should be sure when you are purchasing your home that you are not also purchasing the tank and taking on the responsibility for replacing it should that become necessary.
- <sup>41</sup> In this Guide associations of tenants, residents, or homeowners in general will be referred to as "residents' associations."
- <sup>42</sup> The law requires that tax escalator clauses be written in a certain form, which is set forth in M.G.L. c. 186, § 15C. It must state that: your portion of the property tax increase is in the same proportion as your lot bears to the whole property being taxed; the exact percentage of any increase; and that if your community owner/operator gets a tax refund or "abatement," you will receive your proportionate share of the refund (after subtracting out the community owner/operator's legal fees in connection with the reduction).
- <sup>43</sup> Although most rent control was abolished in Massachusetts as of January 1, 1995, manufactured housing communities were specifically exempted from that law. Quinn v. Rent Control Board of Peabody, 45 Mass. App. Ct. 357, 376-77 (1998).
- <sup>44</sup> A judge may order you to pay the fair rental value of your homesite, which could be more or less than your old rent, depending on the condition of your site. M.G.L. c. 239, § 11.
- <sup>45</sup> If you have a lease, a community owner/operator may also try to collect a late charge through what is called a "discount clause." This clause is simply a disguised late payment penalty clause, and thus is illegal if it conflicts with 940 C.M.R. 10.03(2)(i).
- <sup>46</sup> Increased water, sewer and trash removal charges are the types of costs that may justify a per capita charge.
- <sup>47</sup> This requirement ensures that per capita charges will not have a discriminatory impact on families with children in violation of the federal Fair Housing Act. See 42 U.S.C. § 3604(b).
- <sup>48</sup> Sometimes, community owner/operators seek to recover capital costs under 940 C.M.R.

- 10.03(2)(1) but their residents have no written occupancy agreements. Such owner/operators may recover costs only if they are included in the written disclosures required under 940 C.M.R. 10.04(4).
- <sup>49</sup> This is the standard that the Attorney General's Office uses for purposes of evaluating community rules imposing 55 and older, or 62 and older age restrictions. However, in the past the "constructed expressly for use" requirement in the past has been interpreted – by the Massachusetts Commission Against Discrimination (the "MCAD" or the "Commission") – much more stringently, to mean that in order to qualify for the exemption, a community must have been originally constructed for use as a retirement community; it would thus be impermissible to convert from a general access community to a retirement community. Community owners or residents with questions about this requirements should contact the Commission. See III.A.8.
- <sup>50</sup> If, however, on September 13, 1998 there were residents living in the community who were under age 62, they need not be required to leave the community to qualify for the exemption, so long as all unoccupied units are reserved for persons age 62 and over from then on. 24 C.F.R. 100.303.
- <sup>51</sup> Sellers may want to accompany the buyer to the screening interview: Some owner/operators have used the screening interview to persuade prospective purchasers to buy a home from the community owner/operator instead. Also, if a notice of discontinuance is pending, it is not enough for the community owner/operator to simply inform a prospective buyer of this fact; he must also communicate any other relevant information, such as whether the notice is being legally challenged, and whether a court has issued any rulings that attack the validity of the notice. 940 C.M.R. 10.07(1)(c).
- <sup>52</sup> He must simultaneously send a copy to the Attorney General, the Director of DHCD, and the local board of health. M.G.L. c. 140, § 32R(a).
- <sup>53</sup> The total price of a proposed sale must be calculated as a lump sum that includes the present value of any installment payments offered and any promissory notes offered in lieu of cash payment. In the case of a proposed lease of the property, the capitalized value of the annual rent must be stated. M.G.L. c. 140, § 32R(b).
- <sup>54</sup> The residents' or homeowners' association need not be incorporated to qualify under the statute. M.G.L. c. 140, § 32R(b).
- <sup>55</sup> The right of first refusal does not apply to: a government taking by eminent domain or negotiated purchase; a forced sale pursuant to a foreclosure by an unrelated third party; transfer by gift, devise or operation of law; or a sale to a person who would be an heir at law if there were to be a death of intestate of a manufactured housing community owner/operator. M.G.L. c. 140, § 32R(d).
- <sup>56</sup> One example of a "binding commitment" is a typical financing agreement, subject to conditions that are customary and commercially reasonable. 940 C.M.R. 10.09(3)(b).
- <sup>57</sup> The language of § 32R(d) does not, however, authorize a community owner/operator to walk away from the residents' purchase and sale agreement if a new, higher offer is received from the original offeror. Assuming the resident's offer matched the original offer, it would be "unreasonable" for the owner/operator to refuse the residents' offer since the community owner/operator has already provided notice, in writing, that he or she "intend[ed] to accept" the virtually identical original offer.
- <sup>58</sup> A Notice to Quit states that you must "deliver up" or "vacate" the premises by a certain date. You do not have to move out by this date. The purpose of the Notice is to give you warning of your

landlord's desire to terminate your tenancy, the first step of the eviction process.

- <sup>59</sup> The answer date is listed on the summons. The filing costs do not include your community owner/operator's attorney's fees or the cost of serving the Notice to Quit. They do not include the costs of the summons and complaint forms, serving those forms on you, and filing them in court.
- <sup>60</sup> There are five Housing Courts: Boston Housing Court, Hampden County Housing Court, Northeast Housing Court, Southeast Housing Court, and Worcester County Housing Court. The clerk of your local District Court may be able to help you determine whether your municipality falls within the jurisdiction of any of these courts.
- <sup>61</sup> If you had a good reason for failing to answer, you can ask a judge to remove the default judgement. Ask the clerk's office for a form to remove the default, fill it out and file it with the court.
- <sup>62</sup> There are three kinds of discovery you can use: (1) interrogatories, a list of up to 30 questions that your community owner/operator must answer in writing and under oath; (2) a request for production of documents, a written request for copies of documents that are in the community owner/operator's possession; and (3) a request for admissions, a written request asking the community owner/operator to admit or deny certain statements. Unif. Summ. Proc. R. 7.
- <sup>63</sup> If you have filed a notice of appeal within ten days after entry of the judgement against you, the execution will not issue unless and until the appeal has been decided against you.
- <sup>64</sup> See St. 1993, c. 8, §§ 1 et seq. (Raynham); St. 1989, c. 561, § 7 (North Reading); St. 1988, c. 259, § 7 (Salisbury); St. 1987, c. 302, §§ 1 et seq. (Peabody).
- <sup>65</sup> See Quinn v. Rent Control Board of Peabody, 45 Mass. App. Ct. 357 (1998).
- <sup>66</sup> An owner/operator whose notice of discontinuance or change of use is not given in good faith is not entitled to any increase in rent otherwise allowed during the two-year period. M.G.L. c. 140, § 32L(7A).
- <sup>67</sup> You are not entitled to monetary compensation if you purchased a home or moved a home into the community, after receiving actual notice that the community owner/operator had issued a change of use or discontinuance notice to the residents. 940 C.M.R.10.10(3)(a).
- <sup>68</sup> The appraised value is the fair market value of the home and any existing appurtenances, but excluding the value of the underlying land. The appraiser is to value the home as if it were going to continue to be located on the manufactured housing community site. M.G.L. c. 140, § 32L(7A).
- <sup>69</sup> The purpose of the state sanitary code is to protect people's health, safety, and well-being, by setting minimum legal standards that community owner/operators must follow. For example, it contains minimum standards concerning the provision of water, electricity, and sanitary sewage disposal. Certain conditions must be corrected within 24 hours, others within 5 days, and all violations must be repaired within 30 days of notification to the community owner/operator. 105 C.M.R. 410.830.
- <sup>70</sup> St. 1993, c. 145, § 1.
- <sup>71</sup> It is a criminal act for a community owner/operator to willfully allow violations of the state sanitary code, with a possible fine of up to \$500. M.G.L. c. 111, § 31.



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## **APPENDICES**

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## **EXPLANATION OF LEGAL CITATIONS**

This Law Guide is not the law. It is a guide to the law prepared by the Attorney General's Consumer Protection and Antitrust Division, which enforces the Manufactured Housing Act. It does not constitute an official opinion of the Attorney General; the Attorney General's statutory authority to issue opinions extends only to requests by certain state officials, District Attorneys and branches of committees of the Legislature. M.G.L. c. 12, §§ 3, 6, 9. For further clarification of the significance of this Guide or any of the following legal citations or Latin phrases, please consult a legal aid or private lawyer.

**Legal Citations** References to particular laws and regulations are included in this booklet. Statutory citations can be checked at most local libraries, and regulations can be obtained through the State House bookstore.

**Citation Form** The following are examples of what the legal citations mean:

|                         |                                                                               |
|-------------------------|-------------------------------------------------------------------------------|
| M.G.L. or G.L.          | Massachusetts General Laws                                                    |
| M.G.L. c. 140, §§ 32A-S | Manufactured Housing Act                                                      |
| C.M.R.                  | Code of Massachusetts Regulations                                             |
| U.S.C.                  | United States Code                                                            |
| C.F.R.                  | Code of Federal Regulations                                                   |
| __Mass.__               | Decision of the Massachusetts Supreme Judicial Court                          |
| __Mass. App. Ct.__      | Decision of the Massachusetts Appeals Court                                   |
| __U.S.__                | Decision of the United States Supreme Court                                   |
| Unif. Summ. Proc. R.    | Massachusetts Uniform Summary Process Rules                                   |
| 940 C.M.R. 10.00        | Office of the Attorney General's Manufactured Housing Community Regulations   |
| 105 C.M.R. 410.00       | Massachusetts Sanitary Code Minimum Standards of Fitness for Human Habitation |
| M.G.L. c. 111, § 127    | Massachusetts Sanitary Code Authorities and Procedures                        |
| M.G.L. c. 93A           | Massachusetts Consumer Protection Act                                         |
| M.G.L. c. 151B          | Massachusetts Anti-Discrimination statute                                     |
| M.G.L. c. 186           | Massachusetts Terms of Tenancy statute                                        |
| M.G.L. c. 239           | Massachusetts Summary Process Act                                             |

Reference to, for example, "section II.D.1.b" refers to section II of this Guide ("A Consumer's Guide to Manufactured Housing Community Living"), subsection D ("Community Conditions"), paragraph 1(b) ("Community owner/operator's maintenance responsibility/Common areas").

|                |                                 |
|----------------|---------------------------------|
| <u>E.g.</u>    | For example                     |
| <u>Et seq.</u> | And everything following        |
| <u>Id.</u>     | Same as the last legal citation |





THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON 02133

WILLIAM F. WELD  
GOVERNOR

ARGEO PAUL CELLUCCI  
LIEUTENANT-GOVERNOR

August 13, 1993

To the Honorable Senate and House of Representatives:

Today I am signing into law Senate Bill No. 1586, "An Act Further Regulating Manufactured Housing Communities."

In enacting this legislation, the General Court has recognized the urgent need to address a crisis faced by a large number of elderly and low-income residents of mobile home parks. This legislation would protect tenants who are facing the possible discontinuance of these parks and are consequently threatened with the uncompensated forfeiture of their homes. In declaring this act an emergency law, the General Court has underlined the urgent necessity of protecting the affordable housing option which manufactured housing communities offer to residents of the Commonwealth.

It is my hope that this act will assist both manufactured home community tenants and owners by making manufactured housing communities in the Commonwealth a more secure and affordable investment.

Sincerely,

*William F. Weld*

William F. Weld  
Governor



## **THE ATTORNEY GENERAL'S MODEL RULES FOR MANUFACTURED HOUSING COMMUNITY LIVING**

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With the helpful contributions of representatives of the Massachusetts Manufactured Housing Association (the "MMHA"), the Mobilehome Federation of Massachusetts (the "MFM"), and a representative of the Department of Housing and Community Development and the Manufactured Housing Commission, the Attorney General's Office developed the following model community rules governing residents' occupancy and use of the home site and common areas in a manufactured housing community. These Model Rules comprehensively address a wide range of issues faced by the majority of manufactured housing communities in the Commonwealth. Adopting these Model Rules word for word will provide fair, clear, and balanced rules for your community, simplify your process for creating community rules, and assure that your community's rules satisfy the requirements of the law applicable to manufactured housing communities, and receive favorable review by the Attorney General's Office.

Although most of the Model Rules may be uniformly adopted by communities statewide, certain rules allow for flexibility to address each community's needs. In particular, rather than adopt a blanket rule on use of water, the Model Rules allow communities to adopt watering schedules that reflect local ordinances and water bans that may change from time to time. (See Rule 13, Water Use.) Similarly, the Model Rules allow communities to develop their own reasonable rules for use of common recreational facilities – such as clubhouses or pools – as long as such rules are posted and/or made available to all residents and their guests in conspicuous related areas. (See Rule 30, Clubhouse and Recreational Facilities.) The Model Rules also allow community owner/operators to add information unique to their community. This fact is indicated either by a blank space (\_\_\_\_) or by bracketed language [\_\_\_\_] indicating what sort of information may be inserted to tailor the rule to the community's unique needs. Rule 1 (Community Owner(s), Manager, and Emergency Phone Number) provides space for the name, address, and phone numbers of the community owners and manager, and the emergency phone number for the community. Rule 5 (Rent) allows each community owner to determine the day of the month that the rent is due. Rule 14 (Garbage and Rubbish Collection and Disposal) allows the owner/operator to describe the method for trash collection. Rule 15(e) (Exterior Aesthetic Standards for Community) allows for a description of the community's aesthetic standards. Rule 18 (Digging) provides space for the state "Dig-Safe" number, which is currently 1-888-344-7233, but is subject to change.

Please understand that owner/operators who use the Model Rules are still required to follow the statutory review process for community rules. In order to expedite that review, owner/operators should indicate in the cover letter accompanying their submission whether they have adopted the Attorney General's Model Rules verbatim. Although we encourage using the Model Rules in their entirety, we recognize that certain communities may want to tailor the Model Rules to their unique needs. To the extent that any owner/operator wants to use the Model Rules in part – i.e., he or she intends to either modify or omit certain rules – he or she should indicate that fact in writing when submitting the rules for review to this Office. In particular, any changes in language or any rules added should be in bold font. In addition, if you omit any of the rules included, you should list the rules omitted in your cover letter.

RULES OF  
[INSERT NAME OF COMMUNITY]

These rules govern the homeowners/residents' occupancy and use of the homesite and common areas in the community. They are intended to promote the convenience, quiet enjoyment, safety, and welfare of the residents in this community; preserve the property of both residents and the community owner/operator; preserve and enhance the quality of life in the community; and allocate services and facilities in a fair and appropriate manner.

1. Community Owner(s), Manager and Emergency Phone Number

Community Owner(s)' Name(s), Address and Phone Number:

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Community Manager's Name, Address and Phone Number:

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Emergency Phone Number:

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These rules use the term "owner/operator" to refer to either the owner(s), the operator(s), and/or the manager of the community.

2. Application for Tenancy

Any person intending to establish tenancy in this community (the "applicant") must first fill out an application with the community manager in advance. The approval process must be completed after the initial agreement is reached, but before the sale, transfer, or sublease of the manufactured home is finalized. Tenancy applications shall be approved, and the owner/operator shall consent to entrance by the applicant and members of the applicant's household, if the applicant and the members of his household meet the currently enforceable rules of the community and the applicant provides reasonable evidence of financial ability to pay the rent and other charges associated with the tenancy in question. The owner/operator shall have ten calendar days to consider each application. Approval of applications for tenancy shall not be unreasonably withheld or delayed. As part of this application process, a copy of the Community Rules will be provided to each prospective applicant.

3. Registration

Upon approval of the application for tenancy in the community, all residents in the community must register with the owner/operator. This registration requirement applies to all persons who intend to reside in the community with the exception of guests who remain less than ninety days in any calendar year.

#### 4. Residents' Rights and Responsibilities under the Law

(a) All terms and conditions of occupancy shall be disclosed in writing and delivered to any prospective tenants, including without limitation any existing tenants whose current tenancy is being amended, renewed, or extended, and approved subtenants.

(b) These terms and conditions of occupancy are entitled the "Written Disclosures" and shall include at a minimum the Community Rules with attached "Important Notice Required by Law," along with the following: (a) the amount of rent; (b) an itemized list of any usual charges or fees; (c) the proposed term(s) of occupancy, including the option of a lease for a term of five years; (d) the names and addresses of all owners and operators of the community; (e) the size and location of the manufactured home site, including any known defects; and (f) a description of all common areas and facilities and any restrictions on their use. In addition, the owner/operator shall make available for resident inspection a copy of the Attorney General's manufactured housing regulations (940 C.M.R. 10.01 et seq.), either at the manager's office or in the area where the Community Rules are posted.

(c) Such Written Disclosures and Community Rules shall be signed and delivered by the community operator at least 72 hours prior to the signing of any occupancy agreement or the commencement of any new occupancy. All residents are required to sign a receipt acknowledging they have received and read both the Community Rules and Written Disclosures.

#### 5. Rent

The due date for payment of rent is on the \_\_\_\_ day of the month, and if not received by the fifth day following, will be recorded as received after the due date. Any fees which may be imposed either for late payments (thirty days after the due date) or for checks returned for insufficient funds shall be listed in the Written Disclosures. Failure to pay rent as provided by law may provide grounds for evicting you from the community.

#### 6. The Home Site

A rented site shall be used as the site for only the following: the manufactured home, which is to be used primarily as a residence; two personal motor vehicles; and ancillary structures or areas, such as [choose those that apply: patio areas, decks, porches, sheds, carports, or garages.]

#### 7. Occupancy

In every home, there shall be no more than two occupants per bedroom, unless a higher or lower number is permissible according to the standards of the United States Department of Housing and Urban Development ("HUD") or other applicable local, state, or federal law.

#### 8. Common Areas

The common areas of the community include the roadways and every area in the community except the homes sites and those areas restricted from residents' use, as disclosed in the Written Disclosures.

9. Utilities

a. **Owner/Operator's responsibility:** The owner/operator shall provide, pay for, maintain, and repair systems for providing water, sewage disposal, and electricity, up to the point of connection with each manufactured home, in accordance with applicable laws.

b. **Tenants' Responsibility:** Tenants are responsible for paying for the maintenance and repair of utilities from the point of connection to the manufactured home to the inside of the home.

c. **Cable TV and Telephone Service:** Each homeowner shall pay for all cable TV, telephone, and internet service actually provided to the manufactured home.

d. **Metered Utilities:** Each homeowner is required to pay for his or her own use of gas, oil, and electricity, as long as (1) there is individual metering by a utility or utilities, (2) the meter serves only the individual home, and (3) the homeowner's payment obligation has been disclosed in the Written Disclosures.

e. **Changes in Gas and Electrical Service:** Any homeowner wishing to make changes, increases, or alterations to his or her gas or electrical service must first notify the owner/operator that he or she has have obtained proper permits and complied with all applicable electrical or other safety codes.

f. **Tampering With Utilities:** Tampering with meter boxes and utility services is not permitted.

g. **Disposal of Wastes:** The community's utilities and septic systems shall be regularly maintained in accordance with applicable laws. Residents may not dump, flush or discharge any hazardous or toxic waste, or other harmful or improper wastes or substances into the disposal systems or drains — such as toilets, showers, bathtubs, and sinks — which serve the home, clubhouse, or other common area in the community. Examples of substances and wastes covered by this rule include the following: aluminum foil, sanitary napkins, baby diapers, baby wipes, coffee grounds, oatmeal, leaves, grease, paint, oil, gas, motor oil, coolant, oil filters, or solvents. Residents shall dispose of such substances and wastes according to proper handling and removal instructions and according to law.

10. Satellite Dishes

Residents may install satellite dishes no larger than that allowed by current F.C.C. regulations (up to 39 inches in diameter, as of August 2000), as long as they obtain prior written approval of the owner/operator, which approval shall not be unreasonably withheld or delayed. All satellite dishes, regardless of size, should be installed with respect for the safety and view of neighbors.

11. Maintenance of Community Roadways, and Other Common Areas

The community owner/operator shall maintain the community roadways and common areas within the community in good repair, and in compliance with applicable health and safety laws.

As part of this responsibility, the owner/operator shall ensure that roadways are reasonably free of debris and potholes, and other common areas are clean, in good repair, and free from debris and rubbish.

## 12. Snow Removal

The community owner is responsible for clearing snow and removing ice, where necessary, from the community roadways and other common areas. Residents are responsible for clearing snow and removing ice, where necessary, on their home sites. When removing snow from driveways, residents should make efforts to put the snow in their own yards and not in community roadways.

## 13. Water Use

a. Residents are encouraged to be aware of water conservation at all times. Residents should make every effort not to leave any faucets or toilets running, leaking, or dripping, and water shall not be left running to protect against freezing.

b. Residents may use the community's water for their ordinary personal and household needs. Excessive use of water, over and above personal and household needs, is not acceptable, and this rule shall be applied in a reasonable and non-discriminatory manner.

c. Watering of lawns is permitted by means of hand-held watering devices and/or other watering devices in accordance with schedules which reflect local ordinances and water bans and are changeable from time to time. Such schedules shall be posted in common areas.

## 14. Garbage and Rubbish Collection and Disposal

a. The owner/operator shall be responsible for the final removal of residents' ordinary household garbage and rubbish. [describe method for trash collection— whether municipal collection system or any other system approved by the board of health, and date and time of trash collection.]

b. All residents shall store garbage and trash inside the home or shed until the day(s) designated for trash removal, and shall pack such garbage and trash in bags or containers that are leak-proof and securely fastened.

c. It is the resident's responsibility to dispose of larger items that require special handling, such as appliances, furniture, and hot water heaters.

d. If the municipality or trash collection company imposes recycling rules, the owner/operator may require residents, without charge, to comply with such recycling rules, once the residents have received reasonable notice of such recycling rules.

e. Yard waste and dead brush may be disposed of only in areas designated by the community owner/operator.

- f. Residents may not dump trash on common areas.

## 15. Aesthetic Standards for Exterior of the Home and Site

a. **Maintenance of Structures:** All homes, exterior doors, steps, patio areas, additions, decks, porches, skirtings, awnings, sheds, fences, and/or other outside structures shall be maintained by the tenant in good repair and structurally sound condition; free of rust spots or unsightly chipped, peeling, or flaking paint; free of broken windows, where applicable; and in compliance with all applicable governmental requirements.

b. **Maintenance of Site:** All residents shall keep their site neat, clean, and free from yard waste, dead brush, garbage, and other refuse. Lawns and shrubs should be kept mowed and trimmed to prevent them from appearing overgrown.

c. **Repairs to the Home or Site by Community Owner/Operator:** If the home's exterior does not comply with any enforceable community rule, the owner/operator may notify the resident in writing that: specific work is required to bring the home or site into compliance with such rule, and the owner/operator will perform the work at the resident's expense if the resident does not do the work within 10 days of receiving such notice. The notice must also specify the amount that will be charged to the resident. If the resident does not do the work within ten days of receipt of such notice, the owner/operator may perform the work and charge the resident the amount specified in the notice, provided that such charges have been listed in the Written Disclosures described in Rule 4.

d. **Structural Modifications to Home or Site:** With the exception noted below, any external structural modifications to the home or site must conform to the general aesthetic standards, for materials, design and siting, of the majority of homes in the community. For purposes of this rule, the term "external structural modifications" includes, among other things, any change in the structure of the outside of the home itself or patio areas, or the erection or alteration of any additions, decks, porches, skirtings, awnings, sheds, fences, enclosures, or other outside structures. Such external structural modifications may be made only with the written approval of the owner/operator, who will determine whether the plans or drawings comply with the community's reasonable rules on aesthetic requirements and whose approval shall not be unreasonably withheld or delayed. For those improvements requiring the approval of the local building inspector, the resident may not begin the work until he or she has submitted to the owner/operator reasonable proof of such approval by the local building inspector. The community owner/operator shall not enforce any otherwise enforceable rule governing the exterior of homes against homes built before June 15, 1976, if it would not be practicable or possible for such home to conform with such rule because the home does not comply with the federal standards for construction of manufactured housing that were made effective on that date.

e. **Exterior Aesthetic Standards for Community:** A list of exterior aesthetic standards for our community include: [Each individual community should list their specific aesthetic standards here, based on the majority of homes.]

## 16. Interior Appearance and Improvements

Tenants shall be responsible for the interiors' compliance with applicable governmental health, safety, and other regulations, and shall only be subject to enforcement by the appropriate governmental authorities.

## 17. Landscaping

a. **Landscaping by Owner/Operator:** With regard to landscaping — such as plants, trees, or shrubs — that the owner/operator has done at the home sites or in common areas, residents may not remove or substantially change the appearance of such landscaping without the approval of the owner/operator. In addition, no trees planted by the owner/operator shall be trimmed without the permission of the owner/operator. Such approval shall not be unreasonably withheld or delayed. This rule does not prevent residents from doing routine gardening at their site or engaging in regular maintenance of their lawns, shrubbery, and other plantings. In addition, this rule does not prohibit residents from removing any improvements made by the resident (including landscaping), as long as the resident repairs any damage to the home site caused by the removal of such improvements.

b. **Landscaping by Residents:** Most utilities are located underground and therefore residents may only do substantial landscaping of their sites after complying with all enforceable rules on digging (see Rule 18 below) and obtaining owner/operator's prior written approval, which shall not be unreasonably withheld or delayed. This rule does not prevent residents from doing routine gardening at their site or engaging in regular maintenance of their lawns, shrubbery, and other plantings.

## 18. Digging

Before a resident begins to dig or excavate on his or her site, he or she must notify "Dig-Safe" and comply with state "Dig-Safe" law. The number for Dig-Safe is \_\_\_\_\_. The owner/operator must be given notice of the appropriate Dig-Safe clearance numbers and clearance dates. This rule does not prohibit residents from doing routine gardening and maintenance of lawns and shrubbery.

## 19. Goods and Services

The resident may hire any vendor, supplier, or contractor of his or her choice to provide goods and services for the home and home site. For those vendors, suppliers, or contractors (the "vendor") whose provision of goods or services may pose risks to the health, safety, welfare or property of other residents, the owner/operator, or the community as a whole, the resident can hire that vendor only if, before such goods or services are provided, the vendor submits to the resident reasonable evidence that he or she has insurance in an amount reasonably related to the size of the risk(s), and such reasonable evidence shall be provided to the owner/operator upon request.

## 20. Soliciting

Except for such suppliers engaged or about to be engaged by residents and/or the owner-operator, other commercial vendors are prohibited from soliciting and peddling within the community.

## 21. Storage

Residents should not use patios, decks, porches, or lawn areas for long-term storage of items such as bottles, paint cans, trunks, boxes, snow blowers, lawn mowers or other equipment, furniture, bicycles, lawn and garden tools, gas bottles, wood, metal, and other materials. Such items must be stored inside or under the home, or in a shed or garage (if any). The resident may keep lawn furniture and other similar outdoor seasonal items outside the home during the seasons when they are not in use, provided that they are placed on a deck, patio, or porch, and do not interfere with lawn maintenance.

## 22. Fire Safety

Because of the proximity of the homes in the community, the risk of fire damage to surrounding homes, and potential risks to those with pulmonary illnesses, residents are reminded that if they make interior improvements to the home involving equipment posing substantial fire risks — such as fireplaces, wood stoves, and other equipment involving open fires — they are responsible for ensuring compliance with all applicable governmental health, safety and other regulations on public health and fire safety, including those of the local fire department. This rule does not apply to equipment that is already part of the structure of the manufactured home and does not prohibit the use of charcoal or gas grills for cooking at the resident's home site. Residents shall carefully attend to any fire or hot coals in their outdoor grills, and obey all local ordinances regarding open fires.

## 23. Owner/Operator's Right of Entry

The owner/operator may enter onto a tenant's site in case of emergency that threatens the safety or property of the tenant or others. The owner/operator may also enter the site either to inspect the pad, utility connections, and the general condition of the site, or to show the site to individuals interested in renting the site or purchasing the home; however, in such cases, the owner/operator must provide reasonable advance notice before entering onto the site. The owner/operator will not enter a manufactured home unless the tenant has provided prior consent in writing on a separate document addressing only the issue of consent.

## 24. Residents' Conduct

a. **Compliance With Applicable Laws and Community Rules:** All residents shall abide by all enforceable community rules, any fire, health, safety, and sanitary laws, and all other relevant national state or local standards that are applicable to the community and/or the home. Residents will make sure that their children and guests are sufficiently informed so that they understand and comply with all reasonable and applicable community rules.

b. **Privacy, Use and Quiet Enjoyment:** Residents and their guests shall not interfere with the other residents' privacy, use, and quiet enjoyment of their homes or homesites at any time.

c. **Noise and Disturbances:** Residents may not play any stereo, radio, or television, or otherwise create noise, at a level that unreasonably interferes with other residents' right to quiet enjoyment of their homes and home sites. Reasonable quiet must be maintained between the hours of 10:00 P.M. and 7:00 A.M., or during the time period specified in any applicable local by-law or ordinance.

d. **Interference With TV and Radio Reception:** The community does not permit any short wave or CB equipment or similar device that interferes with other residents' privacy or their ability to receive television, radio, or other transmissions.

e. **Use of Firearms and Fireworks:** Discharging of firearms, paint guns, or air guns is prohibited within the community area. The use of fireworks in the community is prohibited.

## 25. Non-Residential Activities

Non-residential activities are permissible in the home or at the home site, as long as residents conform to all applicable zoning and other laws, and do not substantially disrupt the residential nature of the community. Excessive parking, traffic, and noise may be examples of such substantial disruptions of the community's residential nature. In addition, if non-residential activities lead to long-term excessive use of utilities, they may fall under this rule.

Yard sales are permitted [insert reasonable time and manner restrictions.] Residents must request the owner/operator's approval to hold yard sales; and such permission shall not be unreasonably withheld or delayed.

## 26. Pets

All pets must be properly licensed by and immunized, if so required by the local municipality. All residents must disclose to the owner/operator ownership of any pets that go outside. All pets, whether inside or outside the home, are prohibited from disturbing the peace and quiet, and threatening the health, safety or property of residents. No resident may keep a pet whose conduct has endangered the health, safety or property of other residents or their guests. Whenever a pet is outside your home, it must be reasonably restrained at all times, by either a leash or other reasonable restraint. The pet owner is responsible for cleaning up after his pet. If the pet owner violates this rule, the owner/operator may take whatever steps are permitted by law to have the pet removed from the community. [With regard to any pets that go outside, if the insurance policy for the community contains restrictions on pets you may include the following statement: "Our insurance liability policy restricts the following pets: [list], and they may not be brought into the community."]

## 27. Vehicles and Parking

a. **Two Personal Motor Vehicles Per Site:** Residents may park up to two personal motor vehicles at their site. [For any communities with sites that accommodate only one or no personal

motor vehicles, you must submit a rule indicating that each home has spaces designated for up to two personal motor vehicles designated near to the home.] A personal motor vehicle is any registered vehicle that does not exceed a gross weight of 8600 pounds, with two or more axles.

b. **Guest Parking:** In addition to parking in designated parking spaces on the home site, guests may park their vehicles [choose one: (1) in the guest parking areas or (2) on the street], as long as they do not interfere with the safe passage of emergency vehicles and other residents' rights to use and quiet enjoyment of their homes and home sites.

c. **Unregistered Vehicles:** No permanently unregistered vehicles that are unsightly, in obvious disrepair, or in violation of local ordinances shall be permitted in the community.

d. **Other Vehicles:** Boats, trailers, motor homes, recreational vehicles, and commercial vehicles over 8600 pounds may be kept in the community only if the owner/operator provides permission and a storage area for such purposes.

e. **Violations and Towing:** Any vehicle parked in violation of any enforceable rule, shall, after reasonable notice to the vehicle owner and the appropriate local authorities, be towed at the expense of the owner of that vehicle.

## 28. Use of Community Roadways

a. **Speed Limit:** All vehicles shall be driven at a safe speed within the community. In any case, the speed shall not exceed either the posted speed limit or 15 miles per hour.

b. **Interference With Residents' Right to Use and Quiet Enjoyment:** Residents and their guests shall operate their motor vehicles in a safe manner and obey all road signs, signals, and speed limits posted in the community. No vehicle may be operated by an unlicensed driver or in a manner that interferes with other residents' quiet enjoyment of their homes.

## 29. Repair of Vehicles

a. **Major Repairs:** Major overhauling, major repairs, major spray painting, changing of oil, or any other significant repairs to vehicles is not permitted in the community if such work may involve a risk of leakage of petroleum products. Residents are permitted to do minor repairs of their vehicles within the community as long as there is not such risk of a petroleum product leak.

b. **Oil or Gas Leaks:** Vehicles that are leaking or dripping oil or gas must be promptly repaired. If such leaks are not repaired, the owner/operator shall provide the resident with written notice of the leak and provide a reasonable period of time to repair such leak or remove the vehicle from the community; if residents fail to take corrective action within such reasonable period of time, the owner/operator may take steps to have the vehicle removed or seek other relief for such conduct. Any resident who fails to comply with this rule and whose failure causes damage to the driveway may be liable for costs related to repair of the driveway or roadway if such costs are the result of the resident's fault.

**30. Clubhouse and Recreational Facilities [where applicable]**

a. **Health and Safety Regulations:** Anyone using the clubhouse, pool, recreational facilities, or other common areas shall abide by any applicable health and safety regulations and any reasonable rules for use of such clubhouse, pool, recreational facility, or other common area. Rules for such areas shall be posted and/or made available to all residents and their guests in conspicuous related areas. Such rules shall be reasonable and in accordance with applicable law and, where necessary, are subject to the same review provisions as that for the Community Rules.

b. **Resident Meetings:** Residents may hold meetings at the clubhouse or other common area facility at no charge, subject to the availability of the facility.

**31. Subleasing of Sites and Renting of Homes**

All proposed subtenants must submit applications for residency, described in Rule 2 above. All proposed subtenants will be approved as long as they provide the owner/operator with reasonable evidence that they have the financial ability to pay all rent and other charges, and comply with all enforceable community rules, including the registration requirement in Rule 3. Even after the owner/operator approves a subleasing arrangement, the original tenants continue to be responsible for the rent, other charges of the community, and compliance with the Community Rules.

**32. Sale, Lease, or Transfer of Manufactured Home**

Homeowners have the right to sell their homes on their home sites. Any homeowner wishing to sell, lease, or transfer ownership or occupancy of his or her home shall notify the owner/operator at least thirty (30) days before the intended sale, lease, or transfer. Potential buyers, subtenants, and transferees are required to submit residency applications governed by rule 2 above. This approval process must be completed after the initial agreement is reached but before the sale, lease, or transfer is finalized. The owner/operator has ten calendar days to consider applications, which are deemed to be approved if, after ten calendar days, the owner/operator has not rejected the application and given the reasons for that rejection, in compliance with Rule 2 above.

**33. Broker for Sales of Homes**

Homeowners who sell their homes may sell their homes directly, or use any broker of their choosing. In addition, homeowners may, if they wish, contract to have the community owner/operator act as their broker. Under those circumstances, homeowners should enter into and sign a separate written agreement naming the owner/operator as their broker and charging a broker's fee of no more than 10% of the sale price of the home.

**34. For Sale Signs**

Homeowners may place signs in their homes or on their sites which advertise their home as "for sale" or "for lease." Homeowners using outdoor signs must comply with Rule 18 on digging. In addition, the signs used must be of a type available commercially, and consistent with Rule 15

on aesthetic standards for the exterior of the home and site.

### 35. Liens

For any overdue rent or other permissible tax, fee, or other properly disclosed charge, a community owner/operator may obtain a lien on the manufactured home and the contents of the home of the tenant who owes the debt. The owner may enforce such a lien by bringing a civil action under General Laws chapter 255, section 25A to have the property sold to satisfy the debt.

### 36. Replacement of Manufactured Home

If a tenant intends to replace his home with one of like dimensions, he or she shall obtain the approval of the owner/operator before placing the order for the new home, and such approval shall not be unreasonably withheld or delayed. The new home and its installation and placement on the site must comply with the community's reasonable rules and any applicable federal, state, or local governmental requirements. In addition, any workers hired to install the home must satisfy any applicable federal, state, or local laws, such as any applicable licensing or bonding requirements.

### 37. Approval of Owner/Operator and Enforcement of Community Rules

In any matter which requires the approval of the owner/operator, such approval may be reasonably based on the interests of either protecting the health, safety, welfare, or property of other community residents, the owner/operator, or the community property; and/or complying with standards set forth in enforceable community rules and applicable law. The owner/operator shall apply and enforce the rules in a non-discriminatory manner, free from selective enforcement. In addition, such approval shall not be unreasonably withheld or delayed. In general, such "unreasonable" delay means more than ten days, unless another time period is provided in an enforceable rule or applicable law.

### 38. Complaints

All complaints should be addressed to the community management. It is preferred that complaints be in writing and signed; however, if you have an emergency or have concerns about placing your complaint in writing, you can contact the owner/operator at the number provided in Rule 1 and on the disclosure form. This rule does not restrict any resident from making any complaints to any government agency or other outside group.

### 39. Amendment of Rules

These rules are subject to addition, amendment, alteration, or deletion from time to time, within the discretion of the community owner/operator. At least 75 days before the effective date of any new rules or changes to existing rules, the owner/operator will both conspicuously post [in/at describe common area], and provide the tenant's association with a copy of all the Community Rules and any changes to the Community Rules. The owner/operator will attach to these copies of the rules or changes to the rules the attached notice entitled "Important Notice Regarding Community Rules." All rules and any change to the rules will be submitted for approval to the

Attorney General's Office and Department of Housing and Community Development, at least 60 days before their effective date. Copies of such rules or changes to the rules shall be provided to all residents at least 30 days prior to their effective date.

#### 40. Severability

If any provision of these rules is held to be invalid, either on its face or as applied to residents, such a determination shall not affect the remaining rules.

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[Please note: the following rule is offered for communities that are for residents 55 or older, or 62 or older, and should be included near the beginning of the Community Rules:]

##### 1a. Retirement Community

[fill in community name] is a retirement community for residents aged 55 [or 62] years of age or older. In order to qualify as a resident of this community, [choose one: all residents, or at least one member of each household] must be 55 years of age or older at the time of application. [Note: if you want your community to be a 62 or older community, all applicants and members of their households must be sixty-two or older.]



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## **CHAPTER 140: SECTION 32P. TERMS AND CONDITIONS OF OCCUPANCY; DISCLOSURE IN WRITING; REQUIRED NOTICE**

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### **IMPORTANT NOTICE REQUIRED BY LAW**

The rules set forth below govern the terms of your lease or occupancy with this manufactured housing community. If these rules are changed in any way, the addition, deletion or amendment must be delivered to you, along with a copy of the certified mail receipts indicating that such change has been submitted to the attorney general and the director of housing and community development and either a copy of the approvals thereof by the attorney general and said director or a certificate signed by the owner stating that neither the attorney general nor said director has taken any action with respect thereto within the period set forth in paragraph (5) of section thirty-two L of chapter one hundred and forty. This notification must be furnished to you at least thirty days before the change goes into effect. The law requires all of these rules and regulations to be fair and reasonable or said rules and regulations cannot be enforced.

You may continue to stay in the community as long as you pay rent and abide by the rules and regulations. You may only be evicted for nonpayment of rent, violation of law or for substantial violation of the rules and regulations of the community. In addition, no eviction proceedings may be commenced against you until you have received notice by certified mail of the reason for the eviction proceeding and you have been given fifteen days from the date of the notice in which to pay the overdue rent or to cease and desist from any substantial violation of the rules and regulations of the community; provided, however, that only one notice of substantial violation of the rules and regulations of the community is required to be sent to you during any six month period. If a second or additional violation occurs, except for nonpayment of rent, within six months from the date of the first notice, then eviction proceedings may be commenced against you immediately.

You may not be evicted for reporting any violations of law or health and building codes to boards of health, the attorney general, or any other appropriate government agency. Receipt of notice of termination of tenancy by you, except for nonpayment of rent, within six months after your making such a report shall create a rebuttable presumption that such notice is a reprisal and may be pleaded by you in defense to any eviction proceeding brought within one year.

Any group of more than fifty percent of the tenants residing in the manufactured housing community has certain rights under section thirty-two R of chapter one hundred and forty, to purchase the community in the event the owner intends to accept an offer to sell or lease the community in the future. If you wish to receive further information about the financial terms of such a possible purchase, you may so notify the owner at any time by signing the attached Request for Information and returning it to the owner in person or by certified mail. Such request for information shall not obligate you to participate in any purchase of the community. For a proposed sale or lease by the owner which will result in a change of use or a discontinuance of the community you will receive information at least two years before the change becomes effective. Otherwise, Requests for Information or similar notices from more than fifty percent of the tenants residing in the community must be on file with the owner before the owner is required to give you information concerning the financial terms of a sale or lease.

This law is enforceable by the consumer protection division of the attorney general's office.

**CHAPTER 140: SECTION 32P. TERMS AND CONDITIONS OF  
OCCUPANCY; DISCLOSURE IN WRITING; REQUIRED NOTICE**

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**REQUEST FOR INFORMATION**

The undersigned, a tenant in the manufactured housing community known as \_\_\_\_\_ and located at \_\_\_\_\_, Massachusetts desires to receive information concerning any proposed sale or lease of the community as required under Section 32R of Chapter 140 of the General Laws. I understand that this request shall not obligate me to participate in any purchase or lease of the community, but is only a request for information. This notice is being delivered to the owner or owner's manager either in person or by certified mail on \_\_\_\_\_ (date)\_\_\_\_\_.

(Tenant - Name)

## **IMPORTANT NOTICE REGARDING COMMUNITY RULES**

Please take notice that [the owner/operator] wants to [choose 1: issue/add/delete or amend] the community rules. In particular, we intend to [choose 1: issue/add/delete or amend] [rule(s) number \_\_\_\_\_]. The proposed new rules are attached. These new rules would apply to all community residents, and may have a material effect on living conditions in the community. The Attorney General and the Director of the Department of Housing and Community Development have the authority to approve these new rules. Any resident who wishes to provide comment on the proposed rules should write to the Consumer Protection and Antitrust Division, Office of the Attorney General, 1 Ashburton Place, 19th fl., Boston, MA 02108. Residents may also submit their comments to [the owner/operator's name and address].

[Please note that this notice complies with the requirements of 940 C.M.R. 10.04(3).]



## **MOBILEHOME FEDERATION OF MASSACHUSETTS**

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**MASSACHUSETTS MANUFACTURED HOUSING ASSOCIATION, INC.**

**Executive Director**

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Marlborough, MA 01752

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**LOCAL CONSUMER PROGRAMS**

**2001**

**BERKSHIRE COUNTY**

**Berkshire County Consumer Advocates, Inc.**

150 North Street  
Pittsfield, MA 01201  
(413) 443-9128  
Lillian Marcantel, Director

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**BOSTON**

**City of Boston**

**Consumer Affairs and Licensing Division**

City Hall, Room 817  
Boston, MA 02201  
(617) 635-3834  
Contact: Carol Maynard

**Businesses and Residents of** ALLSTON, BOSTON, BRIGHTON, CHARLESTOWN, DORCHESTER, EAST BOSTON, HYDE PARK, JAMAICA PLAIN, MATTAPAN, ROSLINDALE, ROXBURY, SOUTH BOSTON, WEST ROXBURY.

**BROCKTON**

**Bentley Consumer Action Line**

Lindsay Hall  
Bentley College  
175 Forest Street  
Waltham, MA 02452-4705  
(800) 273-9494

**Businesses and Residents of** ATTLEBORO, BRIDGEWATER, BROCKTON, EAST BRIDGEWATER, EASTON, MANSFIELD, NORTH ATTLEBORO, NORTON, RAYNHAM, TAUNTON, WEST BRIDGEWATER

**CAMBRIDGE**

**Cambridge Consumers' Council**

831 Massachusetts Avenue

Cambridge, MA 02139

(617) 349-6150

Paul Schlaver, Director

**Businesses and Residents of CAMBRIDGE.**

**CAPE COD**

**Consumer Assistance Council, Inc.**

149 Main Street

Hyannis, MA 02601

Paul Schrader, Director

(508)771-0700/(800)867-0701

**Businesses and Residents of** BARNSTABLE, BASS RIVER, BOURNE, BOURNE DALE, BREWSTER, BUZZARDS BAY, CATAUMET, COTUIT, CUMMAQUID, CENTERVILLE, CHAPPAQUIDDICK ISLAND, CHATHAM, CHATHAMPORT, CHILMARK, DENNIS, DENNISPORT, EAST DENNIS, EAST FALMOUTH, EAST HARWICH, EAST SANDWICH, EASTHAM, EAST ORLEANS, EDGARTOWN, FALMOUTH, FORESTDALE, GAY HEAD, GOSNOLD, GRAY GABLE, HARWICH, HARWICHPORT, HATCHVILLE, HYANNIS, HYANNISPORT, MADAKET, MARSTON MILLS, MARTHA'S VINEYARD, MASHPEE, MONUMENT BEACH, NANTUCKET, NATIONAL SEASHORE, NICKERSON STATE PARK, NORTH CHATHAM, NORTH EASTHAM, NORTH FALMOUTH, NORTH HARWICH, NORTH TRURO, OAK BLUFFS, ORLEANS, OSTERVILLE, OTIS AIR FORCE BASE, POCASSET, PROVINCETOWN, SAGAMORE, SAGAMORE BEACH, SANDWICH, SIASCONSET, SOUTH BREWSTER, SOUTH CHATHAM, SOUTH DENNIS, SOUTH HARWICH, SOUTH MASHPEE, SOUTH ORLEANS, SOUTH TRURO, SOUTH WELFLEET, SOUTH YARMOUTH, SURFSIDE, TEATICKET, TISBURY, TRURO, VINEYARD HAVEN, WAQUOIT, WELFLEET, WEST BARNSTABLE, WEST BREWSTER, WEST CHATHAM, WEST DENNIS, WEST FALMOUTH, WEST HARWICH, WEST TISBURY, WEST YARMOUTH, WOODS HOLE, YARMOUTH, YARMOUTHPORT

**FALL RIVER**

**Fall River Consumer Program**

One Government Center

Fall River, MA 02722

(508) 324-2672

(508) 324-2626 - Fax

Jacqueline Wright, Director

**Businesses and Residents of** ASSONET, BERKLEY, DIGHTON, FALL RIVER, FREETOWN, LAKEVILLE, REHOBOTH, SEEKONK, SOMERSET, SWANSEA, WESTPORT

**FRANKLIN COUNTY**

**Consumer Protection Office**

District Attorney's Office  
238 Main Street, 4th Floor  
Greenfield, MA. 01301

(413) 774-5102  
Paul Finnegan, Director

Elizabeth Scheibel, D.A.

District Attorney's Office  
One Gleason Plaza  
Northampton, MA 01060

(413) 586-9225  
(413) 584-3635 - Fax

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**HAVERHILL**

**Consumer Protection Program**

Haverhill Community Action, Inc.  
25 Locust Street  
Haverhill, MA 01830  
(978) 373-1971  
Thomas Joy, Director

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350 Essex Street  
Lawrence, MA 01842  
(978) 681-4990  
Marie Finelli, Director

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**Middlesex Community College**

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33 Kearney Square, Room 117  
Lowell, MA 01852  
(978) 656-3342  
Kenneth A. Dunn, Director

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**MEDFORD**

**Medford Consumer Advisory Commission**

90 Main Street  
Medford, MA 02155  
(781) 393-2460  
Paula Keefe, Director

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**METRO WEST**

**Consumer Assistance Office of Metro West, Inc.**

209 West Central Street  
Natick, MA 01760  
(508) 651-8812  
Charlotte Walsh, Marilyn Kelber, Co-Directors

**Businesses and Residents of** ACTON, ARLINGTON, ASHLAND, BEDFORD, BOXBOROUGH, CARLISLE, CONCORD, DOVER, FRAMINGHAM, HOLLISTON, HOPKINGTON, HUDSON, LEXINGTON, LINCOLN, MARLBOROUGH, MAYNARD, MEDFIELD, MEDWAY, MELROSE, MILLIS, NATICK, NEEDHAM, SHERBORN, STONEHAM, STOW, SUDBURY, WALTHAM, WAYLAND, WELLESLEY, WESTON, WINCHESTER

**NEW BEDFORD**

**Consumer Assistance Council, Inc.**

149 Main Street, P.O. Box 2445  
Hyannis, MA 02601  
(508) 771-0700  
(800) 867-0701  
Paul Schrader, Director

**Businesses and Residents of** ACUSHNET, DARTMOUTH, FAIRHAVEN, MARION, MATTAPOISETT, MIDDLEBORO, NEW BEDFORD, NORTH DARTMOUTH, ROCHESTER, SOUTH DARTMOUTH

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**Newton-Brookline Consumer Office**

Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02159  
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Mim Cole/Judy Zohn, Directors

**Businesses and Residents of BELMONT, BROOKLINE, NEWTON, WATERTOWN**

**NORFOLK COUNTY**

**Consumer Protection Division**

Norfolk District Attorney's Office  
10 Granite Street  
Quincy, MA 02169  
(617) 984-5600, ext 118  
Dan deBenedictis, Director

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**MassPIRG Consumer Action Center**

Whipple Center  
182 Green Street  
N. Weymouth, MA 02191  
(781) 335-0280  
Jeanne Foy, Director

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**REVERE**

**Consumer Affairs Office**

Revere City Hall  
281 Broadway  
Revere, MA 02151  
(781) 286-8114  
Pat Tata, Director

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265 South Meadow Rd.  
Plymouth, MA 02360  
(508) 747-7575, extensions 225, 226  
Linda Tilley, Director

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**SPRINGFIELD**

**Mayor's Office of Consumer Information**

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Springfield, MA 01103  
(413) 787-6437  
(413) 787-7781  
Janice Garrett, Director

**Businesses and Residents of** AGAWAM, ALDENVILLE, AMHERST, BELCHERTOWN, BLANDFORD, BONDSVILLE, BRIMFIELD, CHESTER, CHESTERFIELD, CHICOMANSETTE, CHICOPEE, CHICOPEE FALLS, CRESCENT MILLS, CUMMINGTON, DAYVILLE, DWIGHT, EAST BRIMFIELD, EAST LONGMEADOW, EASTHAMPTON, FAIRVIEW, FEEDING HILLS, FLORENCE, GOSHEN, GRANBY, GRANVILLE, HADLEY, HAMPDEN, HAMPTON PONDS, HATFIELD, HAYDENVILLE, HOLLAND, HOLYOKE, HUNTINGTON, INDIAN ORCHARD, LEEDS, LITHIA, LONGMEADOW, LUDLOW, MIDDLEFIELD, MILL RIVER, MONSON, MONTGOMERY, MONTVILLE, MT. TOM, NORTH AMHERST, NORTH CHESTER, NORTH HADLEY, NORTHAMPTON, NORWICH, PALMER, PELHAM, RUSSELL, SMITH FERRY, SOUTH AMHERST, SOUTH HADLEY, SOUTH HADLEY FALLS, SOUTHAMPTON, SOUTHWICK, SPRINGFIELD, THORNDIKE, THREE RIVERS, TOLLAND, WALES, WARE, WEST SPRINGFIELD, WESTFIELD, WESTHAMPTON, WILBRAHAM, WILLIAMSBURG, WILLIMANSETTE, WORONOCO, WORTHINGTON, WYBEN.

**WORCESTER**

**Consumer Council of Worcester County**

Worcester Community Action Council, Inc.

484 Main Street, Second Floor

Worcester, MA 01608

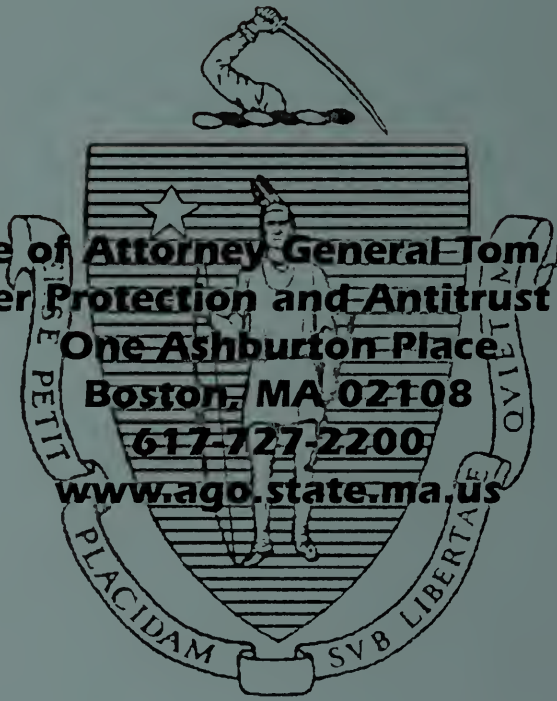
Diane Reilly, Director

(508) 754-1176

**Businesses and Residents of** ASHBURNHAM, ATHOL, AUBURN, BARRE, BERLIN, BLACKSTONE, BOYLSTON, BROOKFIELD, CHARLTON, CLINTON, DOUGLAS, DUDLEY, EAST BROOKFIELD, GARDNER, GRAFTON, HARDWICK, HOLDEN, HOPEDALE, HUBBARDSTON, LEICESTER, MENDON, MILFORD, MILLBURY, MILLVILLE, NEW BRAintree, NORTH BROOKFIELD, NORTHBOROUGH, NORTHBRIDGE, OAKHAM, OXFORD, PAXTON, PETERSHAM, PHILLIPSTON, PRINCETON, ROYALSTON, RUTLAND, SHREWSBURY, SOUTHBOROUGH, SOUTHBRIDGE, SPENCER, STERLING, STURBRIDGE, SUTTON, TEMPLETON, UPTON, UXBRIDGE, WARREN, WEBSTER, WESTBOROUGH, WEST BOYLSTON, WEST BROOKFIELD, WESTMINSTER, WINCHENDON, WORCESTER







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The seal of the Commonwealth of Massachusetts is centered behind the text. It features a shield with a Native American figure holding a bow and arrow, a five-pointed star above the figure's right shoulder, and a crest above the shield showing a bent arm holding a broadsword. A ribbon scrolls around the shield with the Latin motto: "ENSE PETIT PLACIDAM SVB LIBERTATE QUIETEM".